



## **water & sanitation**

Department:  
Water and Sanitation  
REPUBLIC OF SOUTH AFRICA



EdTM

Enquiries: M Diedricks  
Telephone: 012 336 6696  
Reference: 6/2/2/6

**MINISTER OF WATER AND SANITATION**

**NATIONAL ASSEMBLY: QUESTION 1426 FOR WRITTEN REPLY**

A draft reply to the above mentioned question asked by Mrs D Robinson (DA) is attached for your consideration.

**DIRECTOR-GENERAL**

DATE: 9/7/15

**DRAFT REPLY APPROVED/AMENDED**

**MRS NP MOKONYANE  
MINISTER OF WATER AND SANITATION**

DATE: 07 07 15

NATIONAL ASSEMBLY

FOR WRITTEN REPLY

QUESTION NO 1426

DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 17 APRIL 2015  
(INTERNAL QUESTION PAPER NO. 10)

**1426. Mrs D Robinson (DA) to ask the Minister of Water and Sanitation:**

Does her department have a Regulatory Burden Reduction strategy in place; if not, why not; if so, what are the relevant details of the strategy?

NW1639E

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**REPLY:**

Yes. Cabinet has recently approved the Socio Economic Impact Assessment System (SEIAS) which is effective from 1 June 2015. The SEIAS requires that government departments must, before developing any policy, regulations and legislation, ensure that they take steps to minimize the unintended consequences of such policy, regulations and legislation, including unnecessary costs of implementation and compliance. The SEIAS further requires government departments to anticipate implementation risks and develop measures to mitigate such risks.

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water & sanitation

Department: Water and Sanitation  
REPUBLIC OF SOUTH AFRICA

81/51389  
**DRINGEND URGENT**

Tracking no

D17294

cc Acting CD: CPOD (Ms Mnyabangaka)  
cc Shokye Moloto

ENQUIRIES: Central Point Helpdesk  
TELEPHONE: 012-336-8176/8819

→ DG

COO

DDG: NWRI

DDG: P&I

DDG: IWC

DDG: CS

DDG: REGULATION

DDG: COMMS

CFO: MA

CFO: WTE

CD: LS

CD: IA

SANITATION

PA TO THE DG

PA TO THE MINISTER

PA TO THE DEPUTY MINISTER

**DOCUMENT MANAGEMENT: CORRESPONDENCE FROM THE OFFICE OF THE DG**

Your immediate attention to the enclosed document will be appreciated. Please contact central point if you have any queries.

- Complete a Submission and draft reply for Minister/Deputy Minister/DG's signature on or before: 25/6/2015
- Comments to be submitted to the Minister/Deputy Minister/DG in the form of a submission via the DG on or before: .....
- Reply on behalf of the Minister/Deputy Minister/DG and copy of response to DG's office on or before: .....
- Speech to be drafted and submitted to Minister/Deputy Minister/DG with submission on or before: .....
- Briefing notes in preparation for Minister/Deputy Minister/DG's meeting on or before: .....
- Nominate suitable official to attend meeting/workshop/conference on behalf of the Minister /Deputy Minister/DG, inform the organisers accordingly and copy DG's office on or before: .....
- Minister /Deputy Minister /DG requests meeting – liaise with his/her office/PA to arrange date
- Circulate to Chief Directors/Directors/your staff for information/comments
- Please attend to this matter on behalf of the Minister/Deputy Minister/DG
- For information only and then arrange for filing on correct Head Office file
- Invitation / Request for a meeting
- Central Point to Acknowledge receipt
- DG to provide further directive

INSTRUCTIONS FROM DG: .....  
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.....  
.....

P. Kalle  
For DIRECTOR: EXECUTIVE SUPPORT  
IN THE OFFICE OF THE DIRECTOR-GENERAL  
DATE: 17/06/2015

ALL RESPONSES TO BE RETURNED TO:  
CENTRAL POINT, ROOM 1049, SEDIBENG  
BUILDING, FRANCIS BAARD STR, PRETORIA  
Please replicate the above Tracking no. on your response

**Kale Portia**

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**From:** Mdakane Phumzile  
**Sent:** 17 June 2015 09:57 AM  
**To:** Central Point  
**Subject:** FW: Implementation of the Socio-Economic Impact Assessment System (SEIAS)  
**Attachments:** SEIAS Final Impact Assessment Template may 2015.docx; SEIAS guidelines revised from training v1 May 2015.docx; SEIAS Initial Impact Assessment Template may 2015.docx; Process map for SEIAS v2 June 2015 2.pptx; Letter to DG DWS-Implementation of SEIAS-15-06-2015.pdf

Dear Colleagues

Kindly receive email and attached documents for tracking.

Warm regards  
Phumzile



**From:** Pulane Kole [mailto:pulane@presidency-dpme.gov.za]  
**Sent:** Monday, June 15, 2015 6:38 PM  
**To:** DiedericksM@dwa.gov.za  
**Cc:** Mdakane Phumzile; Maboko Ivy; Puseletso.mthombeni@dmv.gov.za; Petro Malatji  
**Subject:** Re: Implementation of the Socio-Economic Impact Assessment System (SEIAS)

Dear Director General

1. Please find the attached communique regarding the roll out of the implementation of SEIAS as approved by Cabinet in February 2015
2. Kindly note the transition period ending **31 August 2015**
3. SEIAS Guidelines and Assessment Templates are attached to be used by your department when developing policies, regulations and legislations
4. All required information as per the attached letter should reach DPME on or before **26 June 2015**

Kind Regards

**Pulane Kole**

**Outcome 4: Socio-Economic Impact Assessment System (SEIAS)**

The Presidency | Department of Planning, Monitoring and Evaluation

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**THE PRESIDENCY**  
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Ms Margaret - Ann Diedricks  
Director-General  
Department of Water and Sanitation  
Private Bag X 313  
PRETORIA  
0001

Dear Colleague

**RE: IMPLEMENTATION OF THE SOCIAL ECONOMIC IMPACT ASSESSMENT SYSTEM**

In February 2015, Cabinet approved the Socio-Economic Impact Assessment System (SEIAS) to be applied by all national departments when crafting policies, regulations and legislations linked to the national priorities. The key objectives are to ensure that prescripts are better formulated, unintended consequences are minimised and implementation thereof is not delayed.

Since the approval of SEIAS by Cabinet; DPME consulted with various departments to create awareness on SEIAS guidelines and template and offered practical trainings on application of SEIAS.

In the light of the above progress, departments are requested to apply SEIAS when developing policies, regulations and legislations that are linked to the national priorities with effect from the 1<sup>st</sup> of July 2015. A transition period has been put in place from 01 June to 31 August 2015 and departments are required to follow the below stated procedure:

1. SEIAS Templates as attached comprise of two parts viz. the initial impact assessment which is applied at the conceptual phase of the policy/ regulation/ bill and the final impact assessment at draft stage of the policy/ regulation/ bill;
2. SEIAS must be applied to all policies, regulations and legislations that have impact on the national priorities and SEIAS reports should accompany all bills that are submitted to Cabinet. The Cabinet Office will issue a new memorandum format that is inclusive of the SEIAS;
3. Where the department has already drafted a bill, there will be no need to apply the SEIAS initial impact assessment; the department will have to subject the prescript to the final impact assessment template;
4. When applying SEIAS initial impact assessment, departments are not required to publish the report formally but should make it available during consultation process with stakeholders;
5. The SEIAS final Impact assessment report should be made available on both departmental and DPME websites when the legislation is gazetted;

**Kale Portia**

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**From:** Mfomande Vusumuzi Laurence  
**Sent:** 17 June 2015 10:02 AM  
**To:** Central Point  
**Cc:** Fundakubi Nthabiseng; Mbeki Nombulelo; Moatshe Frans; Shakwane Gracious; Maboko Ivy; Skritshi Phatheka; Peens Elsabé  
**Subject:** RE: DG CIRCULAR NO. 1 OF 2015 - DECLARATION OF CONSULTANTS / PROFESSIONAL SERVICE PROVIDERS

Good morning

Finance Main Account does not have consultants/Professional service Providers currently providing services to the Department.

Regards,

**Mr Vusumuzi Mfomande**  
Directorate: Strategic Support in the Office of the CFO  
Department of Water and Sanitation  
Private Bag X 313  
PRETORIA  
0001  
Office 705 Zwamadaka Building  
Tel: 012 336 8667  
Mobile: 0829404778  
Email: Mfomandev@dws.gov.za

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**From:** Kale Portia On Behalf Of Central Point  
**Sent:** 15 June 2015 02:57 PM  
**To:** Mfomande Vusumuzi Laurence  
**Cc:** Fundakubi Nthabiseng; Skritshi Phatheka; Shakwane Gracious; Central Point; Maboko Ivy  
**Subject:** FW: DG CIRCULAR NO. 1 OF 2015 - DECLARATION OF CONSULTANTS / PROFESSIONAL SERVICE PROVIDERS  
**Importance:** High

Dear Colleague

Attached is a circular from DG regarding declaration of Consultants/ Service Providers.

The due date for this information was 12 June 2015, and according to our records response from Finance: Main Account is outstanding.

Kindly advise when this information will be provided to Central Point, as the DG's due has passed.

Regards

Central Point

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**From:** Peens Elsabé  
**Sent:** 09 June 2015 10:03 AM



**To:** Mahlangu Squire; Singh Anil; Mathe Zandile; Mochotlhi Deborah; Mofokeng Mpho; Fundakubi Nthabiseng; Motloung Matlakala; Lusenga Lindiwe; Van Der Walt Andre; Maphanga Moshito; Ntuli Duncan Thulani; Keet Marius (GAU); Starkey Ashley (DBN); Lobakeng Chadwick(MMB); Ntll Tseliso (BFN); Kobe Lucy (PKE); Guma Fikile (NSP); Abrahams Abe (KBY); Khan Rashid (BVL); Ramunenyiwa Petunia  
**Cc:** Central Point; Sodladla Nonzame; Naidoo Bronwyn Roxanne; Skhonde Portia; Napakade Tabita; Ramsing Mark; Mfomande Vusumuzi Laurence; Mseme Katrina; Nkokou Gomolemo  
**Subject:** DG CIRCULAR NO. 1 OF 2015 - DECLARATION OF CONSULTANTS / PROFESSIONAL SERVICE PROVIDERS

To all concerned:

Please find attached a circular from the Director-General, for your urgent further attention.

Rgds

Elsabé

Executive Support

Department of Water and Sanitation

Sedibeng Building, PRETORIA

185 Francis Baard Street

Tel: +27 12 336 7685

[Elsabe123@dwa.gov.za](mailto:Elsabe123@dwa.gov.za) | [www.dwa.gov.za](http://www.dwa.gov.za)

5. For each option, indicate what can be done to mitigate the identified risks.

Option	Identified risks	Mitigation measures	Comments
a.			
b.			
c.			

At this point, if you think the analysis points to a more useful or stimulating set of options, revise the SEIAS. You may find that you would like to combine some of the options, or that the process of discussion around the options has generated ideas that are better than your original ideas. Ideally, the three options considered should all be good ideas – that provides the best test for the final strategy adopted.

### 3 Summary

1. Based on your analysis, as reflected in the discussion of the three options above, summarise which option seems more desirable and explain why.
2. What specific measures can you propose to minimise the implementation and compliance costs of your preferred option, to maximise the benefits?
3. What are the main risks associated with your preferred option, and how can they best be managed?
4. What additional research should you do to improve your understanding of the costs and benefits of the option adopted?
5. For the purpose of building a SEIAS body of knowledge please complete the following:

5.1 Was the SEIAS done by the department or by the service provider?

5.2 If done by the department please provide the following:

Name of the Official:

Designation:

Unit:

Contact Details:

Email address:

5.3 How long did it take the department to complete this template?

4. Based on the table on costs and benefits, describe how the different options would contribute to or detract from national priorities. Remember this is a think-tool, so explore the issues freely.

Priority	Option 1	Option 2	Option 3
Social cohesion			
Security			
Economic growth and investment			
Economic inclusion (employment creation and equity)			
Environmental sustainability			

3. For each option, describe the possible implementation costs, compliance costs, and the desired outcomes, listing who would bear the costs or, in the case of outcomes, enjoy the benefits. In addition, note the risks that could threaten implementation of each option.

Option	Implementation costs	Compliance costs	Desired outcomes	Risks
1				
2				
3				

4. What are the main causes of the problem? That is, why does the problem arise and why does it persist?

5. Whose behaviours give rise to the problem, and why does that behaviour arise? Remember that several groups, including some in government, may contribute to the identified problem. Their behaviour may arise amongst others because the current rules are inappropriate; because they gain economically from the behaviour; or because they are convinced they are doing the right thing. Identifying the behaviours that cause the problem should point to the behaviours that must be changed in order to achieve the desired solution.

## 2 Options

1. List at least three options for addressing the problem, including (a) your preferred proposal, and (b) an option that does not involve new or changed regulation.

a.

b.

c.

2. What social groups would gain and which would lose most from each of the three options? Consider specifically the implications for households earning under R7000 a month; micro and small business; black people, youth and women; and rural development.

Option	Main beneficiaries	Main cost-bearers
1		
2		
3		

# The Initial Impact Assessment for SEIAS

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May 2015

The initial impact assessment aims to ensure that the policy is on the right track by requiring an evaluation of alternative approaches. It should help drafters avoid finalising an inappropriate solution because they moved too quickly to select a strategy without adequately analysing the roots of the problem and considering alternative measures. It should facilitate a brainstorm about the issues involved in the problem and the full range of alternatives to deal with them.

## **1 The problem/Theory of change**

1. What is the social or economic problem that you are trying to solve?
2. Identify the major social and economic groups affected by the problem, and how they are affected. Who benefits and who loses from the current situation?
3. Which of the five top priorities of the state – that is, social cohesion, security, economic growth, economic inclusion (job creation and equality), and a sustainable environment – is negatively affected by the problem?

*Often only a qualitative analysis of the impact of a policy is possible or desirable. That kind of estimate improves the policy process by pointing to areas where costs and risks can be moderated or where they are patently excessive relative to the anticipated benefits of the policy. The impact assessment should serve more to focus discussion and identify areas of debate and improvement than to provide a fully quantified accounting.*

- g) How should I quantify costs and benefits if they're intangible or very broad or long term? For instance, improved ECD leads to better educational outcomes and income over a person's whole lifetime. That can't be meaningfully put into a single number.

*Often it is important to point to the existence of major costs and benefits, even if they can't be fully quantified. Again, the aim is mostly to ensure that policy makers take these costs and benefits into account. There are techniques for quantifying them if it proves really necessary, but usually it is less important than having a broad understanding of the issues involved.*

**Thank you for co-operating with this effort to improve policy making and achieve a more coherent, sustainable, prosperous and secure society!**

*The impact assessment should be managed by the drafters of the policy. As a rule, they should carry out the initial assessment, which should be approved by their Director General. Where the proposal affects other departments or government agencies, they should discuss the assessment with these bodies.*

*Who does the final assessment depends on how complex an analysis is required, which in turn depends largely on the scope of the proposal being assessed. For major interventions, it is desirable to ensure an expert analysis, possibly including a modelling exercise. As a rule of thumb, the drafters should seek outside expertise to help fill out sections of the form that they cannot complete using their own knowledge.*

- b) Will Cabinet consider a proposal without the impact assessment?

*From [DATE], only proposals that have an impact assessment attached will be considered by Cabinet.*

- c) Stakeholders just lobby for their own interests – why should I listen?

*Stakeholders generally know more about their conditions and the likely impact of a proposal than government officials. If drafters simply ignore their inputs, they often come up with erroneous estimates of the cost of new measures. The time spent in consultation should be viewed as participatory research. If the stakeholders appear to have exaggerated views, then more academic research should be used to check them.*

*It is useful to frame discussions with stakeholders by (a) requiring that their inputs provide alternative ways to solve the problem identified, if they do not like the one that has been drafted, and (b) requiring that they consider how their inputs would impact on broader development and growth. This approach seeks to move the discourse from power and self interest to reason and evidence. Experience demonstrates that it generates much more meaningful and thoughtful discussions.*

- d) All this research will just stop us from implementing anything.

*SEIAS permits drafters to adjust the scope of the assessment process to the significance of each proposal. In any case, a failure to take unintended consequences into account can mean policies become unnecessarily contentious, impose large undesirable costs on society, or are simply ignored.*

- e) My job is to provide a specific service. Why should I care about the priorities of other departments that are listed in the assessment format?

*The failure to align government around core priorities has undermined service delivery and economic transformation. Taking the impact on national priorities into account with every measure, even if it is not directed at those priorities, is critical to improve the alignment of government actions. The process also builds in a quid pro quo, since other departments also have to take into account your priorities, as long as they align with the national mandate.*

- f) Will the impact assessment count even if I can't quantify costs and benefits?



stakeholders, but is responsible for representing the long-term interests of the majority of the population and the country as a whole. It is therefore critical that the drafter consult where possible with representatives of the majority of the electorate, for instance through union and community leaders.

Third, any new rule inevitably imposes some burdens on those who benefited from the pre-existing laws and structures. In South Africa, in particular, achieving a more equitable and inclusive society requires systematic changes in the behaviour of formal enterprises and relatively well-off communities. Relatively small sacrifices on their part can lead to a significant improvement in the conditions of the majority. The challenge is to identify when the burdens of change loom so large that they could lead to excessive costs to society, for instance through disinvestment by business or a loss of skills to emigration.

The impact assessment should help manage these risks by pointing to ways to reduce the burdens associated with change as well as identifying benefits to offset them. Many relatively well-off households and businesspeople understand that a more equitable and inclusive economy will benefit them in the longer run both by providing a more welcoming and supportive society and by reducing the level of crime.

Fourth, impact assessment should support the alignment and integration of government strategies by identifying the economic impacts of non-economic measures and the social effects of economic measures. By extension, impact assessments for rules that target improvements around infrastructure, social services, the environment and security should include an estimate of the impact on economic growth, investment, employment creation and equity. Similarly, rules designed to affect economic activities, for instance supporting investment or employment creation, should be assessed in terms of their implications for the environment, social cohesion and security.

Finally, drafters need to decide how far they can go in quantifying the impact of their measures, in addition to providing a broad qualitative analysis. As noted above, any quantification necessarily involves estimates, since the assessment relies on predictions for outcomes that do not yet exist. For many assessments, only an understanding of the broad order of magnitude is required, based on an evaluation of how the measure will affect different groups. Again, SEIAS aims to clarify decisions and focus discussions, not to come up with a simple numerical judgment. Even if no definitive cost-benefit analysis is possible, the impact assessment should point to major concerns and opportunities.

That said, modelling techniques can simulate the impact of some kinds of measures, including the indirect economic effects. They provide more precise (although not necessarily more accurate) estimates. For most new rules and policies, however, the cost and time required for modelling outweigh the benefits. Furthermore, the precision of the models often masks unproven assumptions, building in a hidden bias.

## 6 FAQ

a) Who should do the impact assessment?

forecast the effects of a change in the rules. The discussion here aims to establish some common approaches to make these estimates as reliable and consistent as possible. Again, the aims are to improve proposals, not simply to accept or reject them as is; many of the costs and benefits will be described but not quantified; and the SEIAS process should always identify the main risks to achieving the desired outcomes and ways to mitigate them.

The SEIAS builds on two fundamental approaches to evaluating the impact of a new rule:

1. Technical analysis, where researchers identify from their investigations, published studies and more or less complex simulations how the new rule will likely to affect different groups in society, and
2. Participatory research, mostly through consultation with stakeholders, in order to get an assessment of the impact of a new rule from those most affected and knowledgeable about the context.

Drafters must manage the following challenges in the assessment process.

First, as noted above, it is important to ensure that the assessment process is proportionate to likely impact of the proposed rule. A relatively minor technical change, for instance to modify standards for solar water heaters, would require some consultation with producers and consumer representatives, as well as a fairly rough calculation of the cost of re-tooling production lines and the implications for the final price. In contrast, assessment of, say, the National Health Insurance policies, legislation and regulations will require a large research programme and ideally some modelling of the economic and social impacts. It would also necessitate a very broad programme of consultation with representatives of various healthcare providers, the public (as healthcare consumers), employers, unions and provincial health departments, amongst many others.

Second, the assessment process must manage the biases that, especially in such an unequal society, inevitably affect both the people doing the assessment and their respondents. For this reason, as noted in the assessment formats proposed in the next section, estimates of costs and benefits should always be linked to the affected groups. In addition, assessments should explicitly look at the impact of proposed new rules on the core national priorities of social cohesion and security, economic inclusion and growth, and environmental sustainability.

A particular challenge arises in evaluating stakeholders' inputs. By definition, stakeholders often know more about the context and likely impact of any policy than government officials. But their information is also necessarily shaped by their own interests. Framing the consultation in terms of the broader, longer term national interest helps contain overt self-interest bargaining. Nonetheless, some bias will persist in all stakeholder inputs. Their information is critical for sound decision making, but it must be evaluated carefully against research as well as other stakeholders' views.

A further issue around stakeholders is that some elite groups – notably suburban ratepayers associations, professional groups and business associations – have more capacity to engage with drafters than comparatively impoverished, poorly organised and vulnerable people and groupings. In any democracy, however, the government does not just mediate between

The information contained in the published impact assessment should be suitable for public consumption in line with the provisions of the Promotion of Access to Information Act, 2000 (taking into consideration updates and amendments to the Act). Where an assessment cannot be published because it requires or generates classified information, the drafters must state their reasons.

## **4.2 Roles and responsibilities**

The responsibility for developing an assessment of policies, regulations or legislative proposals under SEIAS falls to the sponsoring government department. Departments should develop appropriate capacity to ensure quality assessments, whether conducted entirely by their own officials or in conjunction with external experts.

A SEIAS unit in the Department of Performance Monitoring and Evaluation will provide oversight and training, and generally support government departments in implementing SEIAS. The National Treasury can also provide technical assistance, when required.

While departments may contract out elements of the technical analysis, the impact assessment and its conclusions should be finalised by department officials. Experience shows that buying a complete assessment from consultants leads to two problems: first, the product often does not adequately reflect government priorities; and second, it is frequently subject to allegations of bias.

In short, departments are responsible for the following.

1. Departments must ensure that their policy-making processes conform with SEIAS, starting with the initial impact assessment immediately after the mandate to develop a process is received.
2. Departments should make sure that the effort expended on the impact assessment is proportional to the likely impact of the new regulations or regulatory changes.
3. Both the initial and final impact assessments must use the formats and methods established by guidelines issued by the DPME.
4. Departments must publish the draft final assessment with the policies, legislations or regulations when it goes for public comments and consultation, unless it can provide sound reasons not to, which will generally relate to security and confidentiality.
5. Departments are responsible for attaching the final impact assessment to legislation, regulations or policy when submitted for approval by the relevant authorities, whether Cabinet, the Minister or Parliament. Directors General and Ministers are expected to sign for the quality of impact assessments by their departments when they submit them to Cabinet.

## **5 Methodology**

By their nature, impact assessments require an estimate of the likely effects of an action that has not yet been undertaken. To achieve that end, they analyse the existing situation so as to

4. Development of a final impact assessment that provides a detailed evaluation of the likely effects of the legislation in terms of implementation and compliance costs as well as the anticipated outcome.
5. Publication of the draft policy initiatives, regulation or legislation for public comment and consultation with stakeholders, with the final assessment attached.
6. Revision of the draft and the final assessment based on comment from the public and stakeholders, if required, and submission of the draft policy initiatives, regulation or legislation for approval with the final assessment attached.

The SEIAS procedures shape a structured process, where the costs, benefits and risks of draft rules are continuously assessed and used to strengthen proposals. The assessment is not a once-off exercise but rather an on-going analytical process that happens alongside and informs the development of policies, legislations and regulations.

A SEIAS analysis of a rule will not dictate specific remedies. This is particularly important where rules have been agreed with stakeholders, limiting the ability to change them. In these cases, SEIAS should serve primarily to inform the position of the state in engaging with stakeholders.

The SEIAS applies to:

- New primary legislation, although the impact assessment need not be published for matters affecting national security;
- Subordinate legislation that can have a significant impact on society;
- Significant regulations, legislations and policy proposals; and
- Major amendments of existing legislation, regulations and policies.

Every new rule or policy should be subject to an initial assessment. The effort expended on the final assessment should however be proportional to the likely impact of a rule. It does not make sense to bring in expensive consultants or spend months on assessments of routine updates of regulations, for instance. The initial assessment should indicate the amount of time and resources required for the final assessment.

A more in-depth analysis and broader consultation with stakeholders should be undertaken for proposals where the initial assessment suggests there will be substantial implementation costs, compliance costs, outcomes, risks or political sensitivity. In contrast, if a proposal seems unlikely to have a significant impact, either by itself or through subordinate regulations, the final assessment can be more limited.

In many cases, legislation provides an enabling framework for more detailed regulations, which in turn determine the impact. In these cases, the subordinate regulations should be the main subject of the assessment process.

The following regulations are exempt from the SEIAS:

- automatic increases in statutory fees as long as the increase is at or below the headline inflation rate measured by the Consumer Price Index, and
- regulations giving effect to budget decisions (such as the Division of Revenue Act).

The underlying challenge is that efforts to achieve our national priorities necessarily impose some costs on some social groups. After all, these priorities have been adopted because the economic and social systems inherited from apartheid reproduce unsustainable inequalities and exclusion. SEIAS must help determine when the benefits from state action justify the cost of transformation, as well as whether the implementation costs have been minimised as far as possible.

Policy initiatives, legislation and regulations typically have a different impact on:

- the richest 10% of households, which control almost half of the national income and virtually all formal enterprises, and the poorest 40% of households that gets less than 6% of national income;
- the metros and other major urban areas, and the poorest regions of the country, which are essentially the former homeland areas;
- employers and employees;
- women and men as well as youth and older people; and
- existing industries, which have a range of established state supports, and new industries, which require new measures around infrastructure, skills development and access to capital.

In sum, given complex government priorities in a divided society, SEIAS must generate an assessment of the impacts of a proposed rule that goes beyond a simple cost-benefit analysis. It must help decision makers to understand and balance the socio-economic impacts of proposals on different constituencies. It thus constitutes a tool to improve policy proposals, not a simple measure of their net value.

## **4 Procedures and responsibilities**

SEIAS consists of a set of common procedures and support institutions for assessing the socio-economic impact of new policies, regulations and legislations.

### **4.1 Procedures**

SEIAS distinguishes six main stages in the policy process.

1. The decision to develop (or amend) policies, regulations or legislations in order to address an identified social or economic problem.
2. An initial assessment involving (a) identification of options for addressing the problem and (b) a rough evaluation of the costs and benefits of each option for different social or economic groups.
3. Agreement on the basic option and finalisation of the draft policy initiatives, regulations or legislation in a process that includes appropriate consultation and a continual review of the impact assessment as the proposals evolve.

Finally, drafters are often overly optimistic about the likelihood of achieving the aims of legislation. Typically, a drafter will support her or his proposal by pointing to the gains from success, without noting that those gains may be very unlikely to occur. Risks to success arise from economic, political and social factors outside the control of the state or that are not covered by the proposed rules. For instance, a law that reduces the price of inputs along the value chain may not succeed because a lower price, by itself, may not be sufficient to incentivise the desired investments.

The procedures and methods in SEIAS aim to enable drafters consistently to assess all four kinds of unintended costs and risks that may arise out of new policy initiatives, regulations and legislation.

### **3.2 National priorities in SEIAS**

In South Africa, SEIAS must help ensure that government policies do more to support the core national priorities. It therefore requires that new rules be measured in terms of their impact on

1. social cohesion and security,
2. economic inclusion,
3. economic growth, and
4. environmental sustainability.

Drafters should assess the likely impact of policy, regulation or law on all these priorities in order to ensure not only that the implementation process is efficient but also that it is effective from the standpoint of national aims.

They must also take into consideration that policies, legislation and regulations may have an impact on concurrent functions.

A common risk is that drafters focus on achieving one priority without assessing the impact on other national aims at all. In particular, measures around infrastructure, the social services and the environment often have unforeseen implications for economic growth and inclusion. In addition, measures to support economic inclusion may impose excessive costs on growth, and vice versa.

A more complex challenge arises when meeting national priorities leads to contradictory outcomes. For instance, economic growth on the current path is environmentally unsustainable, since it is highly emissions intensive. New rules must manage the transition to a greener economy in ways that minimise the costs to economic growth, employment and the poor. Similarly, regulations to protect workers and communities from exploitative practices may deter some investments. A balance has to be struck between protecting the vulnerable and supporting a growing economy that will ultimately provide them with more opportunities.

SEIAS can clarify how proposed policies and regulations are likely to affect all the national priorities, but it will not pre-empt tough decisions in these difficult cases. It should, however, ensure more reasoned and effective measures and programmes, which strike an appropriate and sustainable balance between national imperatives.

4. By underestimating the risks involved – in other words, by overestimating the likelihood of success in achieving the anticipated benefits.

We here consider each of these elements in turn.

First, the state has a wide variety of instruments to bring about behavioural change. Amongst many others, they include the imposition of sanctions or the provision of incentives; changes to decision-making criteria and procedures; reforms to institutions and organisational structures; and improved monitoring, including stronger reporting systems and publicity for achievements.

By encouraging drafters to identify the costs of the implementation process, SEIAS encourages them to explore more efficient ways to change behaviour. In particular, it is often quite costly to impose sanctions or provide incentives and to require detailed reporting systems. It is frequently less costly and more effective to incentivise groups other than the state to monitor and support compliance. In the labour laws, for instance, the unions take a central role in monitoring compliance by employers, greatly reducing the need for state inspectors. Similarly, public health initiatives frequently achieve more if they rely on education and positive incentives rather than harsh sanctions.

A less easily identified cost arises when an implementation mechanism opens the door to corruption. It is important to ensure that proposals provide adequate controls on the discretion of individual officials to benefit or harm the public or enterprises. These controls typically take the form of clear criteria for official decisions; requiring officials to publish their decisions and justify them in terms of the criteria provided; and establishing an easily accessible and fair appeals route.

Second, the cost to stakeholders of complying with regulations takes two forms: the regulatory burden and the cost of behavioural change itself.

The regulatory burden generally comprises reporting requirements and applications for permissions and licences. These systems should avoid excessive delays in providing permits as well as unnecessarily complex and time-consuming reporting and registration requirements. They should be realistic about the capacity of the relevant state agencies, or simply processing documents may lead to major delays.

In addition, the desired behavioural change should not in itself prove excessively onerous compared to the anticipated benefits. Thus, regulations that keep street traders from busy public places may mean they lose their livelihoods. The regulation may nevertheless be justified, but drafters should assess the costs as well as the anticipated benefits before they finalise rules.

Third, drafters may overestimate or underestimate the cost and benefits of succeeding in implementing a new rule. For instance, for many years the benefits of providing anti-retroviral treatment for people with HIV were underestimated, leading to inadequate policies in this regard. Similarly, the costs to employment creation from building RDP houses far from city centres appear to be systematically underestimated, leading to inadequate support for public transport and the densification of urban areas.

(refer to Annexure D, Section 4 of the Presidency Guide for the Drafting of the Cabinet Memoranda<sup>2</sup>).

The implementation of SEIAS is overseen by an Interdepartmental Steering Committee made up of Senior Officials of the Presidency (Cabinet Office), DPME, Economic Development Department, National Treasury, Department of Trade and Industry, Department of Environmental Affairs, Department of Labour, Department of Social Development, State Security and the Chief State Law Advisors. The Steering Committee is intended to provide guidance and support and to oversee the implementation of SEIAS. DPME will be responsible for the establishment of a SEIAS unit to ensure the implementation, quality control and capacity support for SEIAS across government. It will be responsible for ensuring that the guidelines and templates are regularly updated and it will support the institutionalisation of the new system.

### **3 The role of SEIAS**

SEIAS aims:

- To minimise unintended consequences from policy initiatives, regulations and legislation, including unnecessary costs from implementation and compliance as well as from unanticipated outcomes.
- To anticipate implementation risks and encourage measures to mitigate them.

A challenge for SEIAS is that in a deeply unequal society like South Africa any policy will have unequal impacts. It is therefore not possible simply to compare estimates of costs and benefits. Rather, impact assessments must analyse costs and benefits to different groups. Furthermore, some costs will prove unavoidable in order to achieve government's broader national priorities.

Finally, SEIAS recognises that many costs and benefits cannot be quantified realistically. It therefore focuses principally on identifying costs and benefits analytically, and points to the specific areas where quantification would assist in evaluating policy impacts.

#### **3.1 The costs and benefits of regulations**

Analysis of the costs of regulations is rooted in the argument that new rules aim to change the behaviour of stakeholders inside and outside of government in order to address a recognised social problem.

In this context, policy initiatives, regulations or legislation can lead to unintended consequences in three ways:

1. Through inefficient implementation mechanisms;
2. Where stakeholders face an excessive cost from complying with the regulation;
3. By over- or underestimating the benefits associated with the new rule's aims; and/or

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<sup>2</sup> The full Guide for the Drafting of the Cabinet Memoranda is available from the Cabinet Secretariat at 012 300 5518/323 8292 or 021 464 2161/464 2162/3



# Guidelines for the Socio-Economic Impact Assessment System

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May 2015

## 1 Introduction

These guidelines:

1. Explain the reasons for introducing a more consistent system for assessing the impact of new policy initiatives, laws and regulations on core government priorities, even when the regulations are not directly linked to those priorities; and
2. Outline the key procedures and techniques for the new system of socio-economic impact assessments.

The guidelines should make it possible to conduct at least an initial, mostly qualitative assessment of a proposed law or regulation.

The first section outlines the mandate and structures supporting the socio-economic impact assessment system (SEIAS). The second section explains how SEIAS will work to support greater alignment across the state while gradually developing a more efficient and effective legislative programme. The third part presents the main procedures and responsibilities associated with SEIAS. The fourth part presents the main methods used in SEIAS. The final section provides answers to some frequently asked questions (FAQ).

## 2 Mandate and establishment of the SEIAS

In South Africa, Cabinet decided on the need for a consistent assessment of the socio-economic impact of policy initiatives, legislation and regulations in February 2007. The approval followed a study commissioned by the Presidency and the National Treasury<sup>1</sup> in response to concerns about the failure in some cases to understand the full costs of regulations and especially the impact on the economy.

To implement the Cabinet decision, from 1 June 2015 Cabinet Memoranda seeking approval for draft Bills or regulations must include an impact assessment that has been vetted by the SEIAS Unit. Cabinet Memoranda need to indicate how departments utilised the information generated by the SEIAS in the recommendations. In addition, the Memoranda should summarise the main findings of the final impact assessment as well as annexing a full report

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<sup>1</sup>The detailed background study on impact assessments and their relevance for South Africa (2005) is available on [www.thepresidency.gov.za](http://www.thepresidency.gov.za).

3. In conclusion, summarise what should be done to reduce the costs, maximise the benefits, and mitigate the risks associated with the legislation. Note supplementary measures (such as educational campaigns or provision of financing) as well as amendments to the draft itself, if appropriate. Add more lines if required.

a.

b.

c.

d.

e.

f.

4. Please identify areas where additional research would improve understanding of the costs, benefits and/or risks of the legislation.

5. For the purpose of building a SEIAS body of knowledge please complete the following:

**5.1 Was the SEIAS done by the department or by the service provider?**

**5.2 If done by the department please provide the following:**

**Name of the Official:**

**Designation:**

**Unit:**

**Contact Details:**

**Email address:**

**5.3 How long did it take the department to complete this template?**

2. Identify the social and economic groups that would benefit most and that would bear the most cost. Add more rows if required.

Main beneficiaries	Main cost bearers
1	1
2	2
3	3

2. Describe the mechanisms included in the proposal for monitoring implementation, evaluating the outcomes, and modifying the implementation process if required. Estimate the minimum amount of time it would take from the start of the implementation process to identify a major problem and remedy it.

#### 4 Summary

1. Summarise the impact of the proposal on the main national priorities.

Priority	Impact
Social cohesion	
Security	
Economic growth and investment	
Economic inclusion (employment creation and equity)	
Environmental sustainability	

4. Describe the main risks to the achievement of the desired ends of the legislation and/or to national aims that could arise from adoption of the proposal. Add more lines if required.

a.

b.

c.

d.

### 3 Managing risk

1. Describe the measures taken to manage the identified risks. Add more rows if necessary.

Identified risk	Mitigation measures
a.	
b.	
c.	
d.	

Group	Implementation costs	Cost of changing behaviour	Costs/benefits from achieving desired outcome	Comments
d.				
e.				
f.				

2. Describe the changes required in budgets and staffing in government in order to implement the proposal. Identify where additional resources would be required for implementation. It is assumed that existing staff are fully employed and cannot simply absorb extra work without relinquishing other tasks.

3. Describe how the proposal minimises implementation and compliance costs.

## 2 Impact assessment

1. Describe the costs and benefits of implementing the proposal to the groups identified in point 6 above, using the following chart. Add more lines if required.

Group	Implementation costs	Cost of changing behaviour	Costs/benefits from achieving desired outcome	Comments
a.				
b.				
c.				

4. Describe the behaviour that must be changed, and the main mechanisms to achieve the necessary changes. These mechanisms may include modifications in decisionmaking systems; changes in procedures; educational work; sanctions; and/or incentives.
  
5. Identify the groups inside and outside of government whose behaviour will have to change to implement the proposal (add more lines if required).
  
  
6. Report on consultations on the proposal with the affected government agencies, business and other groupings noted in the previous point. What do they see as the main benefits, costs and risks? Do they support or oppose the proposal? What amendments do they want, and have these amendments been incorporated in your proposal?
  
  
7. Describe possible disputes arising out of the proposal, and the system for settling and appealing them. How onerous will it likely be for members of the public to lodge a complaint and how burdensome and expeditious is the proposed dispute-settlement procedure?



# Final impact assessment

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*May 2015*

The final impact assessment provides a more detailed assessment of the ultimately legislative proposal. In addition, it identifies (a) mechanisms for monitoring, evaluation and modification as required; and (b) a system for managing appeals that could emerge around the implementation process.

## **1 Problem statement/Theory of change**

- 1. Summarise the proposal, identifying the problem to be addressed and the roots (causes) of the problem that will be addressed by the new rule.**
- 2. Describe the intended outcomes of the proposal.**
- 3. Describe the groups that will benefit from the proposal, and the groups that will face a cost. These groups could be described by their role in the economy or in society. As a minimum, consider if there will be specific benefits or costs for the poorest households (earning R7000 a month or less); for black people, youth or women; for small and emerging enterprise; and/or for rural development. Add more lines if necessary.**
  - a. Beneficiaries**
  - b. Cost bearers**

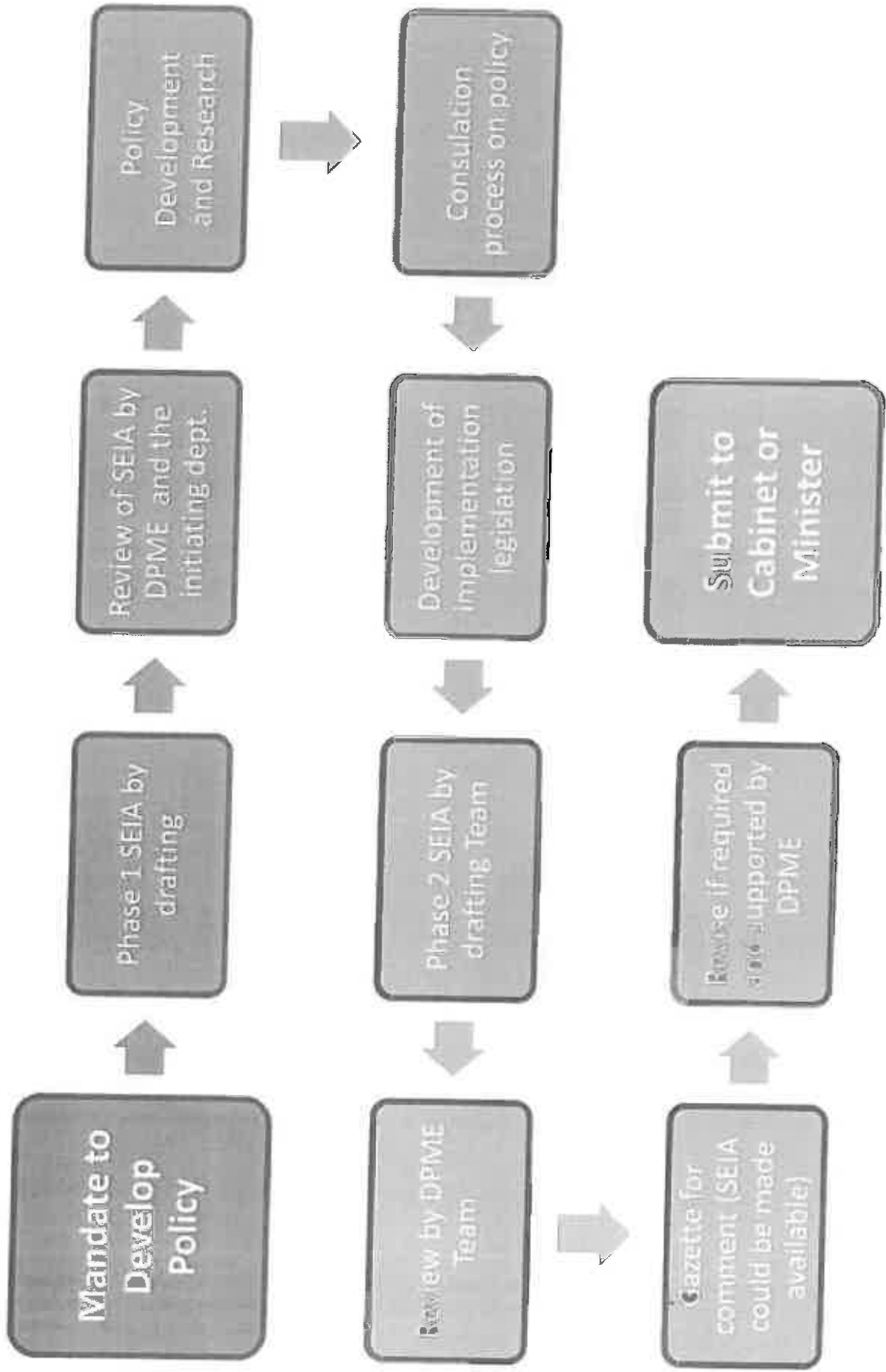
# Next steps

- DPME to assist in ensuring final SEIAs for bills already drafted are expedited and quality assured as expected
- DPME will provide support on request for drafting SEIAs, within your timelines
- Guidelines for process and standards will be issued for SEIA
- Cabinet office will issue relevant instructions on format and requirements for Cabinet memoranda
- Workshop will be held with stakeholders to ensure they understand the process
- Memorandum outlining SEIAs implementation as well as official implementation date to be sent to all departments by mid June 2015

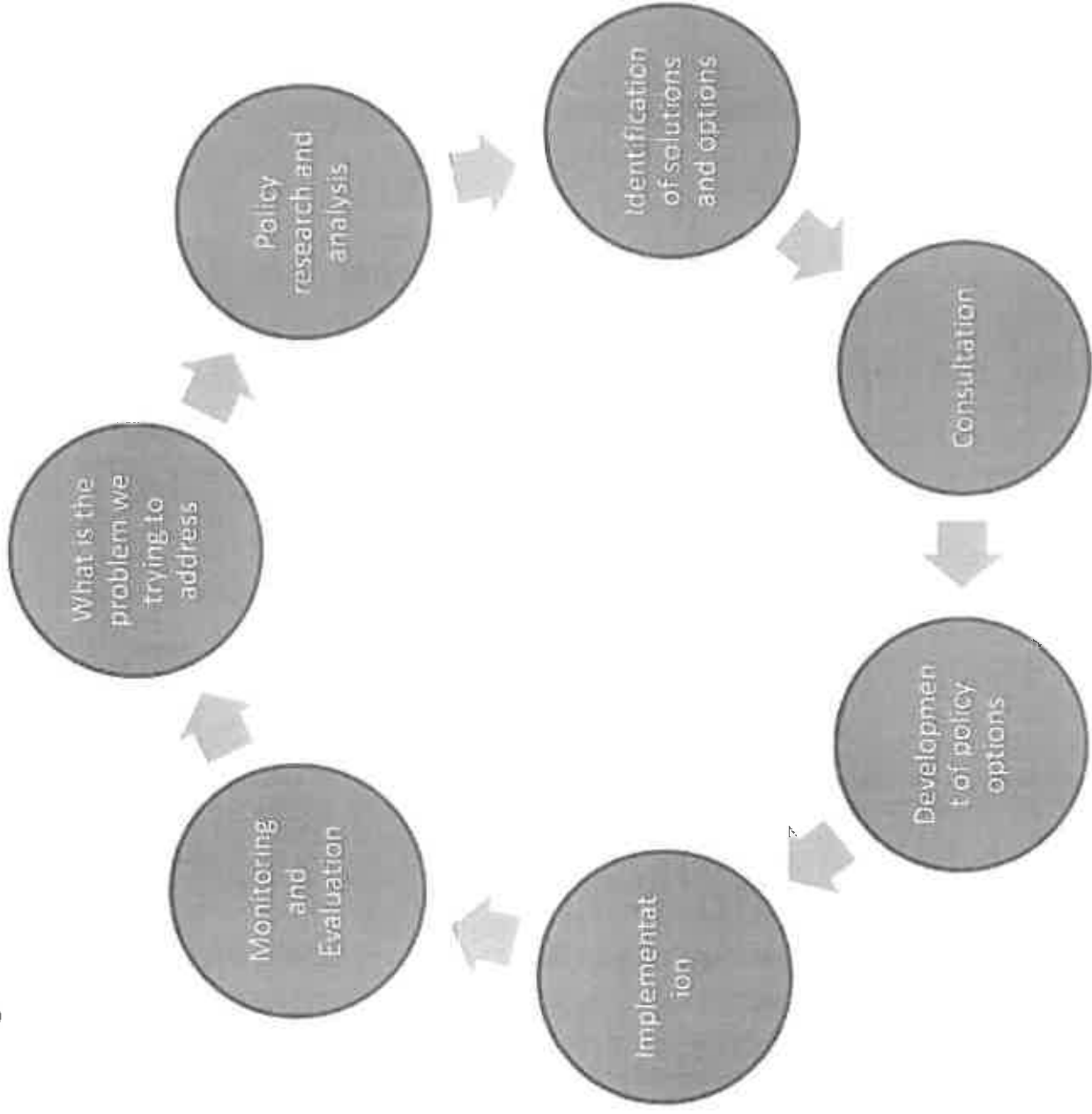
# Transition

- Where the bill is already drafted:
  - No need to do phase 1
  - Send dates by which need SEIAS to accompany gazetting for comment to DPME
  - DPME will contact you about how to manage the SEIAS in line with those dates
- Review legislative processes in departments that must include SEIAS after transition
- Phase 1 SEIAS does not need to be published formally, although it should be available during consultation process to stakeholders
- Final SEIAS has to be available on the departmental and DPME websites when the legislation is gazetted
- After comment, like the legislation, the final SEIAS may be amended before submission to Cabinet or to Minister in the case of a regulations

# Process MAP



# Policy Cycle



## **What we expect of a SEIAS process (2)**

- This is a think tool, not a technical quantification exercise and it therefore does not require consultants – except where you think more research or quantification would help you
- Phase 1 is an internal (and to some degree external) brainstorm at the start of the process and Phase 2 is an evaluation and risk-check of your (almost) final proposals;
  - in the real world, they would be several months apart
- We need to work together to strengthen SEIAS to achieve our aim

## **What we expect of a SEIAS process (1)**

- SEIAS is about improving our policy and legislative processes – its about trying to develop the best policy and legislation for South Africa
  - It is NOT a compliance driven mechanism with another “tick-box” to complete
  - We are always looking at socio-economic costs/benefits and risks, not only at quantifiable economic costs
  - The level of quantification should be proportionate to the need for it – the task team outputs are in many cases at the level of quantification required
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# SEIAS Process

June 2015

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6. Both initial and final SEIAS must be submitted to DPME for comments. DPME will partner with departments to work through the SEIAS done.
7. After departments received comments on their bills; the final SEIAS may be amended before submission to Cabinet or the Minister in the case of policies and regulations;
8. Departments are urgently required to:
  - a. Identify a champion who will support your office to ensure the implementation of SEIAS and to be a contact link with DPME; as a good practice the champion should be a senior manager in the policy coordination environment;
  - b. Submit the legislation programme and list of policies/regulations/bills being developed in the current financial year to DPME;
  - c. Provide dates for DPME to come and conduct a departmental induction on the application of SEIAS to the proposed bills; and
  - d. Ensure that the application of SEIAS is included in the 2016/17 Annual Performance Plans (APPs) together with the policy/ regulation/ legislation drafting programme.
9. DPME will provide support in ensuring that final SEIAS for bills already drafted are expedited and quality assured as expected in a manner that does not disrupt the departments' set timelines.

Your cooperation on the above process will be appreciated. Please do not hesitate to contact Ms Pulane Kole- 012 312 0310/ 076 775 0875, all the correspondences should be emailed to: [seias@presidency-dpme.gov.za](mailto:seias@presidency-dpme.gov.za)

Kind Regards



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**Ms Nolwazi Gasa**  
**Acting Director-General**  
**Date: 13 June 2015**