

S.I. No. 271/1992 — Local Government (*Water Pollution*) Regulations, 1992. 1992 271

S.I. No. 271/1992:

LOCAL GOVERNMENT (WATER POLLUTION) REGULATIONS, 1992.

LOCAL GOVERNMENT (WATER POLLUTION) REGULATIONS, 1992.

In exercise of the powers conferred on the Minister for the Environment by [sections 9](#) and [30](#) of the [Local Government \(Water Pollution\) Act, 1977](#) (No. 1 of 1977), by sections 6, 7, 17, and 19 of that Act as amended respectively by [sections 4](#), [5](#), [13](#) and [14](#) of the [Local Government \(Water Pollution\) \(Amendment\) Act, 1990](#) (No. 21 of 1990), by [section 26](#) of the [Local Government \(Water Pollution\) Act, 1977](#), as amended by [sections 18](#) and [29](#) of the [Local Government \(Water Pollution\) \(Amendment\) Act, 1990](#) and by [sections 8](#), [20](#) and [21](#) of the [Local Government \(Water Pollution\) Act, 1977](#) as substituted respectively by [sections 6](#), [15](#) and [16](#) of the [Local Government \(Water Pollution\) \(Amendment\) Act, 1990](#), which said powers are delegated to me by the Environment (Delegation of Ministerial Functions) Order, 1992 ([S.I. No. 136 of 1992](#)), I, MARY HARNEY, Minister of State at the Department of the Environment, hereby make the following Regulations:—

PART I PRELIMINARY AND GENERAL

1. (1) These Regulations may be cited as the Local Government (Water Pollution) Regulations, 1992.

(2) These Regulations and the Local Government (Water Pollution) Regulations, 1978 ([S.I. No. 108 of 1978](#)), shall be construed together and may be collectively cited as the Local Government (Water Pollution) Regulations, 1978 and 1992.

2. These Regulations shall come into operation on the 1st day of November, 1992.

3. In these Regulations—

any reference to an article which is not otherwise identified is a reference to an article of these Regulations;

any reference to a sub-article or paragraph which is not otherwise identified is a reference to a sub-article or paragraph of the provision in which the reference

occurs;

any reference to a provision of the Principal Act which has been amended or substituted by the Act of 1990 is a reference to such provision as so amended or substituted as the case may be;

"the Act of 1990" means the [Local Government \(Water Pollution\) \(Amendment\) Act, 1990](#) ;

"the 1978 Regulations" means the Local Government (Water Pollution) Regulations, 1978;

"licence" means a licence under section 4 or 16 of the Principal Act and includes such a licence revised under section 7 or 17 of that Act;

"licence application" means an application to a local authority or a sanitary authority for a licence;

"review" means the review of a licence under section 7 or 17 of the Principal Act.

4. The Local Government (Water Pollution) (Fees) Regulations, 1985 ([S.I. No. 115 of 1985](#)) and Part IV of the 1978 Regulations are hereby revoked.

PART II AMENDMENTS TO THE 1978 REGULATIONS

5. The 1978 Regulations are hereby amended by—

(*a*) the substitution of the words "for the purpose of an appeal" for the words "in article 26" and the substitution of the words "the specified fee" for the words "a deposit of £10" in paragraph (*c*) of article 11 (1),

(*b*) the substitution for article 15 (2) of the following sub-article:

"(2) A notice by a local authority under sub-article (1) shall include a statement that an appeal under section 8 may be made to the Board by any person within the period prescribed and that any such appeal must be accompanied by the specified fee and shall specify—

(*a*) whether any condition of the licence the subject of the review has been deleted,

(*b*) whether and in what way any condition of the licence has been amended,

(c) any conditions or additional conditions which have been attached to the licence,

(d) in the event of the revocation of the licence, the reasons for such revocation, and

(e) the date of the decision of the local authority.",

(c) the insertion of the words "within the period prescribed for the purpose of an appeal" after the word "Board" and the substitution of the words "the specified fee" for the words "a deposit of £10" in article 20,

(d) the substitution for article 24 (2) of the following sub-article:

"(2) A notice by a sanitary authority under sub-article (1) shall include a statement that an appeal under section 20 may be made to the Board within the period prescribed and that any such appeal must be accompanied by the specified fee and shall specify—

(a) whether any condition of the licence the subject of the review has been deleted,

(b) whether and in what way any condition of the licence has been amended,

(c) any conditions or additional conditions which have been attached to the licence,

(d) in the event of the revocation of the licence, the reasons for such revocation, and

(e) the date of the decision of the sanitary authority."

6. The 1978 Regulations are hereby amended by—

(a) the addition after article 10 of the following article:

"10A. Where a licence application is made to a local authority in accordance with these Regulations and the relevant requirements of or under these Regulations are complied with, the local authority shall determine the application within a period of two months beginning on the day of the receipt of the application or the day on which all of those requirements are complied with, whichever is the later."

(b) the addition after article 19 of the following article:

"19A. Where a licence application is made to a sanitary authority in accordance with these Regulations and the relevant requirements of or under these Regulations are complied with, the sanitary authority shall determine the application within a period of two months beginning on the day of the receipt of the application or the day on which all of those requirements are complied with, whichever is the later."

PART III LICENCE APPLICATIONS AND REVIEWS

7. (1) A fee shall be paid to a local authority by an applicant in respect of a licence application under section 4 of the Principal Act and to a sanitary authority in respect of a licence application under section 16 of that Act.

(2) The amount of the fee payable under this article is hereby specified to be £300.

8. (1) A fee shall be paid by the licensee to a local authority in respect of a review of a licence under section 7 of the Principal Act or to a sanitary authority in respect of a review of a licence under section 17 of that Act where the licensee applies to the local authority or the sanitary authority to review the licence.

(2) The amount of the fee payable under this article is hereby specified to be £300.

9. An application by a licensee to a local authority or sanitary authority to review a licence shall be made in writing and shall state in full the grounds on which it is made.

PART IV APPEALS

10. In this Part—

"appeal" means an appeal under section 8 or 20 of the Principal Act;

"the Board" means An Bord Pleanála;

"oral hearing" means an oral hearing of an appeal;

"party to an appeal" means—

(a) in the case of an appeal under section 8 of the Principal Act—

(i) the appellant,

(ii) the local authority which granted, refused or reviewed a licence in relation to which an appeal is made,

(iii) the applicant for a licence when an appeal is made by another person,

(iv) the person making, causing or permitting a discharge where an appeal is made by another person in relation to a review of a licence for that discharge,

(b) in the case of an appeal under section 20 of the Principal Act—

(i) the appellant,

(ii) the sanitary authority which granted, refused or reviewed a licence in relation to which an appeal is made;

"relevant persons" means each party to any appeal and any person who has made submissions or observations to the Board in accordance with article 18 of these Regulations;

"State authority" has the meaning assigned to it by [section 84 \(2\) of the Local Government \(Planning and Development\) Act, 1963](#) (No. 28 of 1963).

11. Where a requirement of or under these Regulations requires submissions or observations to be made, or documents, particulars or other information to be submitted to the Board within a specified period and the last day of that period is a Saturday, a Sunday, a public holiday (within the meaning of the [Holidays \(Employees\) Act, 1973](#)) or any other day on which the offices of the Board are closed, the submissions or observations, or documents, particulars or other information (as the case may be) shall be regarded as having been received before the expiration of that period if received by the Board on the next following day on which the offices of the Board are open.

12. (1) The prescribed period for the purpose of an appeal shall be—

(a) in the case of an appeal relating to the grant or refusal of a licence, the period of one month beginning on the date of the grant or refusal of the licence,

(b) in the case of an appeal relating to the decision of a local authority or sanitary authority on a review of a licence, the period of one month beginning on the date of the decision.

(2) An appeal received by the Board after the expiration of the appropriate period prescribed in sub-article (1) shall be invalid.

(3) Where the last day of the appropriate period prescribed in sub-article (1) is a Saturday, a Sunday, a public holiday (within the meaning of the [Holidays \(Employees\) Act, 1973](#)) or any other day on which the offices of the Board are closed, an appeal shall, notwithstanding sub-article (2), be valid as having been made in time if received by the Board on the next following day on which the offices of the Board are open.

(4) Sections 8 (1) (a), 20 (1) (a) and (b) of the Principal Act authorising appeals to be made before the expiration of the period prescribed within the meaning of the said provisions shall be construed as including a provision that an appeal received by the Board after the period prescribed shall be invalid as not having been made in time.

13. (1) An appeal shall—

(a) be made in writing,

(b) state the name and address of the appellant,

(c) state the subject matter of the appeal, and

(d) state in full the grounds of appeal and the reasons, considerations and arguments on which they are based.

(2) An appeal shall be accompanied by such fee as may be specified to be payable in accordance with these Regulations.

(3) (a) An appeal which does not comply with the requirements of sub-article (1) shall be invalid.

(b) The requirement of sub-article 1 (d) shall apply whether or not the appellant requests, or proposed to request, in accordance with article 16, an oral hearing of the appeal.

(4) Without prejudice to article 19, an appellant shall not be entitled to elaborate in writing upon, or make further submissions in writing in relation to the grounds of appeal stated in the appeal or to submit further grounds of appeal and any such elaboration, submission or further grounds of appeal that is or are received by the Board shall not be considered by it.

(5) (a) An appeal shall be accompanied by such documents, particulars or other information relating to the appeal as the appellant considers necessary or appropriate.

(b) Without prejudice to article 20, the Board shall not consider any documents, particulars or other information submitted by an appellant other than the documents, particulars or other information which accompanied the appeal.

(6) An appeal shall be made—

(a) by sending the appeal by prepaid post to the Board, or

(b) by leaving the appeal with an employee of the Board at the office of the Board during office hours.

14. (1) A person making an appeal to the Board shall pay to the Board a fee in respect of the appeal.

(2) Subject to sub-article (3) the amount of the fee to be paid to the Board by a person in respect of an appeal is hereby specified to be £100.

(3) Where an appeal is made to the Board by—

(a) a State authority

(b) a local authority

(c) a sanitary authority

(d) the Central Fisheries Board

(e) a Regional Fisheries Board

(f) Bord Failte Eireann

(g) An Taisce — the National Trust for Ireland

the amount of the fee to be paid to the Board in respect of the appeal is hereby specified to be £50.

15. (1) The Board shall, as soon as may be after receipt of an appeal, give a copy thereof to each other party to the appeal.

(2) (a) Each other party to the appeal may make submissions or observations in writing to the Board in relation to the appeal within a period of one month beginning on the day on which a copy of the appeal is sent to that party by the Board.

(b) Any submissions or observations received by the Board after the expiration of the period mentioned in paragraph (a) of sub-article (2) shall not be considered by the Board.

(3) Where no submissions or observations have been received from a party to an appeal within the period mentioned in paragraph (a) of sub-article (2), the Board may without further notice to that party determine the appeal.

(4) Without prejudice to article 19, a party to an appeal shall not be entitled to elaborate in writing upon any submissions or observations made in accordance with sub-article (2) or make any further submissions or observations in writing in relation to the appeal and any such elaboration, submissions or observations that is or are received by the Board shall not be considered by it.

16. (1) A party to an appeal may request an oral hearing of the appeal and any such request shall be made in writing to the Board.

(2) A party to an appeal making a request to the Board for an oral hearing of an appeal shall, in addition to the fee specified in article 14, pay to the Board a fee in respect of the request.

(3) The amount of the fee to be paid to the Board in respect of the request for an oral hearing is hereby specified to be £50.

(4) A request by an appellant for an oral hearing of an appeal may only be made before the expiration of the period prescribed for the purpose of an appeal in article 12 (1) and any such request not so received by the Board shall not be considered by the Board.

(5) A request by a party to an appeal other than the appellant for an oral hearing of an appeal may only be made before the expiration of the period mentioned in article 15 (2) (a) within which that party may make submissions or observations to the Board in relation to the appeal and any such request not so received by the Board shall not be considered by the Board.

17. Where an appeal is made to the Board, the local authority or sanitary authority which granted, refused or reviewed the licence in relation to which the appeal is made shall, within a period of fourteen days beginning on the day on which a copy of the appeal is sent to them by the Board, submit to the Board as appropriate—

(a) a copy of the licence application concerned and of the documents, particulars or other information which accompanied it,

(b) a copy of any particular furnished by the applicant pursuant to sub-articles 7 (3) or 17 (3) of the 1978 Regulations,

(c) the results of any investigations carried out pursuant to sub-articles 8 or 18 of the 1978 Regulations,

(d) a copy of the decision of the local authority or sanitary authority in relation to the licence, and

(e) any information furnished by the applicant pursuant to article 40 of these Regulations.

18. (1) (a) A person other than a party to an appeal may make submissions or observations in writing to the Board in relation to an appeal.

(b) Submissions or observations as aforesaid may only be made

before the expiration of the period mentioned in sub-article (2) and any submissions or observations not so received by the Board shall not be considered by the Board.

(2) The period referred to in sub-article (1) (b) is the period of one month beginning on the day of receipt of the appeal by the Board or, where there is more than one appeal to the Board, on the day on which the Board last receives an appeal.

(3) A fee shall be paid to the Board by a person other than a party to an appeal making submissions or observations to the Board as regards an appeal.

(4) The amount of the fee to be paid to the Board in respect of the making of submissions or observations under this article as regards an appeal is hereby specified to be £30.

(5) Without prejudice to article 19, a person who makes submissions or observations to the Board in accordance with this article shall not be entitled to elaborate in writing upon the submissions or observations or make further submissions or observations in writing in relation to the appeal and any such elaboration, submissions or observations that is or are received by the Board shall not be considered by it.

19. Where the Board is of opinion that, in the particular circumstances of an appeal, it is appropriate in the interests of justice to request any party to the appeal or any person who has made submissions or observations to the Board in relation to the appeal to make submissions or observations in relation to any matter which has arisen in relation to the appeal, the Board may, in its discretion, notwithstanding article 13 (4), 15 (4), 18 (5) or 30 (2) (d) serve on any such person a notice under this article—

(a) requesting that person, within a period specified in the notice (not being less than fourteen or more than twenty eight days beginning on the date of service of the notice) to submit to the Board submissions or observations in relation to the matter in question, and

(b) stating that, if submissions or observations are not received before the expiration of the period specified in the notice, the Board will, after the expiration of that period and without further notice to the person, pursuant to article 21 determine the appeal.

20. Where the Board is of opinion that any document, particulars or other information is or are necessary for the purpose of enabling it to determine an appeal, the Board may serve on any person who is a party to the appeal or on any other person who has made submissions or observations to the Board in relation to the appeal, a notice under this article—

(a) requiring that person, within a period specified in the notice (being a

period of not less than fourteen days beginning on the date of service of the notice) to submit to the Board such document, particulars or other information (which document, particulars or other information shall be specified in the notice), and

(*b*) stating that, in default of compliance with the requirements of the notice, the Board will, after the expiration of the period so specified and without further notice to the person, pursuant to article 21 dismiss or otherwise determine the appeal.

21. Where a notice has been served under article 19 or 20 the Board, at any time after the expiration of the period specified in the notice, may, having considered any submissions or observations or document, particulars or other information (as the case may be) submitted by the person on whom the notice has been served, without further notice to that person, determine or, in the case of a notice served under article 20, dismiss the appeal.

22. Notwithstanding any other provision of these Regulations the Board shall in the following circumstances have an absolute discretion to dismiss an appeal—

(*a*) where, having considered the grounds of appeal, the Board is of opinion that the appeal is vexatious, frivolous or without substance or foundation, or

(*b*) where, having regard to—

(i) the nature of the appeal (including any question which in the Board's opinion is raised by the appeal), and

(ii) any previous decision of a local authority or a sanitary authority or the Board which in its opinion is relevant,

the Board is satisfied that in the particular circumstances the appeal should not be further considered by it.

23. (1) Where the Board is of opinion that an appeal, or an application for a licence to which an appeal relates, has been abandoned, the Board may serve on the person who made the appeal or application, as may be appropriate, a notice stating that fact and requiring that person, within a period specified in the notice (being a period of not less than fourteen or more than twenty eight days beginning on the date of service of the notice), to make to the Board a submission in writing as to why the appeal or application, as the case may be, should not be regarded as having been withdrawn.

(2) Where a notice has been served under sub-article (1), the Board may, at any time after the expiration of the period specified in the notice, and after considering the submission (if any) made to the Board pursuant to the notice, declare that the appeal or application to which the notice relates shall be regarded as having being withdrawn.

(3) Where pursuant to this article the Board declares that an application is to be regarded as having been withdrawn, any appeal in relation to the application shall be regarded as having been withdrawn and accordingly shall not be determined by the Board.

24. (1) The Board shall have an absolute discretion to hold an oral hearing of any appeal.

(2) A request for an oral hearing may be withdrawn at any time.

(3) Where the Board decides to hold an oral hearing, the Board shall inform relevant persons and shall give such persons not less than seven days notice of the time and place of the opening of the oral hearing or such shorter notice as may be accepted by all such persons.

(4) The Board may, at any time before the opening of an oral hearing, alter the time or place of the opening of the hearing and, in the event of such alteration, the Board shall give relevant persons not less than seven days notice of the new time and place or such shorter notice as may be accepted by all such persons.

(5) Where relevant persons have been informed that an oral hearing is to be held and where, following the withdrawal of a request for an oral hearing, the appeal falls to be determined without an oral hearing, the Board shall give notice accordingly to such persons.

(6) An oral hearing shall be conducted by the Board or by a person authorised for that purpose by the Board generally or for a particular appeal or for appeals of a particular class.

(7) If, for any reason, the person authorised is unable or fails to conduct, or to complete the conduct of, an oral hearing or, for any reason, is unable or fails to furnish a report on an oral hearing to the Board, the Board may authorise another person to conduct the oral hearing or to conduct a new oral hearing.

25. Where the Board is requested to hold an oral hearing of an appeal and decide to determine the appeal without an oral hearing, the Board shall serve notice of its decision on the person who requested the hearing and on each other party to the appeal.

26. The Board or other person conducting an oral hearing shall have discretion as to conduct of the hearing and in particular shall—

(a) conduct the hearing without undue formality,

(b) decide the order of appearance of relevant persons,

(c) permit any relevant persons to appear in person or to be represented by another person.

27. (1) The Board or other person conducting an oral hearing may require any officer of a local authority or a sanitary authority concerned to give to him any information which the Board or other person conducting the hearing reasonably requires for the purpose of the hearing, and it shall be the duty of the officer concerned to comply with the requirement.

(2) The Board or other person conducting an oral hearing of an appeal may take evidence on oath and for that purpose may administer oaths, and a person giving evidence shall be entitled to the same immunities and privileges as if he were a witness before the High Court.

(3) (a) Subject to paragraph (b) following, the Board or other person conducting an oral hearing of an appeal may, by giving notice in that behalf in writing to any person, require that person to attend at such time and place as is specified in the notice to give evidence in relation to any matter in question at the hearing or to produce any documents, particulars, or other information in his possession, custody or control.

(b) The following provisions shall have effect for the purposes of paragraph (a):

(i) it shall not be necessary for a person to attend in compliance with a notice at a place more than ten miles from his ordinary place of residence unless such sum as will cover the reasonable and necessary expenses of the attendance has been paid or tendered to him;

(ii) the local authority or sanitary authority shall, at the request of the Board or other person conducting the oral hearing, pay or tender to any person whose attendance is required such sum as the Board or other person conducting the hearing considers will cover the reasonable and necessary expenses of the attendance;

(iii) any person who in compliance with a notice has attended at any place shall, save insofar as the reasonable and necessary expenses of the attendance have already been paid to him, be paid those expenses by the local authority, or sanitary authority, and those expenses, save as aforesaid, shall, in default of being so paid, be recoverable as a simple contract debt in any court of competent jurisdiction.

(c) a person to whom a notice under paragraph (a) has been given who refuses or wilfully neglects to attend in accordance with the notice or who wilfully alters, suppresses, conceals or destroys any documents, particulars or other information to which the notice relates or who, having so attended, refuses or wilfully fails to produce any documents, particulars or other information to which the notice relates shall be guilty of an offence and shall be liable on summary

conviction to a fine not exceeding £1,000.

(4) A prosecution for an offence under paragraph (c) of sub-article (3) may be taken by the Board.

28. (1) Subject to sub-articles (2) and (3), the Board or other person conducting an oral hearing may adjourn or re-open any hearing or, notwithstanding that any relevant person has failed to attend a hearing, proceed with the hearing.

(2) Notice of the time and place of the re-opening of an oral hearing or resumption of an oral hearing that has been adjourned indefinitely shall be given by the Board to each relevant person not less than seven days before the said time unless all such persons accept shorter notice.

(3) Unless the Board consider it expedient so to do in the circumstances in article 30 or otherwise and so directs, an oral hearing shall not be re-opened after the report thereon has been submitted to the Board.

29. Where in relation to an appeal an inspection is carried out, or an oral hearing is conducted, on behalf of the Board by a person authorised for that purpose by the Board, the person so authorised shall make to the Board a written report on the inspection or hearing, as the case may be, and shall include in his report a recommendation relating to the matter with which the inspection or hearing was concerned, and the Board shall, before determining the appeal in relation to which the inspection was carried out or the hearing was conducted, consider the report including any recommendation contained therein.

30. (1) The Board in determining an appeal may take into account matters other than those raised by a party to an appeal or by any person who had made submissions or observations to the Board.

(2) The Board shall give notice in writing to each party to an appeal and to each of the persons who have made submissions or observations in relation to the appeal of the matters that it proposes to take into account under sub-article (1) and shall indicate in that notice:

(a) in a case where the Board proposes to hold an oral hearing of the appeal, or where an oral hearing of the appeal has been concluded and the Board considers it expedient to re-open the hearing, that submissions in relation to the said matters may be made to the person conducting the hearing, or

(b) in a case where the Board does not propose to hold an oral hearing of the appeal, or where an oral hearing of the appeal has been concluded and the Board does not consider it expedient to re-open the hearing, that submissions or observations in relation to the said matters may be made to the Board in writing within a period specified

in the notice (being a period of not less than fourteen or more than twenty eight days beginning on the date of service of the notice).

(c) Submissions or observations as aforesaid that are received by the Board after the expiration of the period referred to in paragraph (b) of this sub-article shall not be considered by the Board.

(d) Without prejudice to article 19 where a party to an appeal or a person referred to in sub-article (1) makes submissions or observations to the Board in accordance with paragraph (b) of this sub-article, that party or person shall not be entitled to elaborate in writing upon those submissions or observations or to make further submissions or observations in writing in relation to the matters referred to in sub-article (1) and any such elaboration, submissions or observations that is or are received by the Board shall not be considered by it.

31. (1) It shall be the objective of the Board to ensure that every appeal is determined within four months beginning on the date of receipt by the Board of the appeal.

(2) Where it appears to the Board that it would not be possible or appropriate, because of the particular circumstances of an appeal, to determine the appeal within the period referred to in sub-article (1) the Board shall, by notice in writing served on relevant persons, inform such persons of the reasons why it would not be possible or appropriate, as the case may be, to determine the appeal within that period and shall specify the date before which the Board intends to determine the appeal.

(3) Where a notice has been served under sub-article (2), the Board shall take all such steps as are open to it to ensure that the appeal is determined before the date specified in the notice.

(4) This article shall not apply to appeals received by the Board before the 1st day of March, 1993.

32. (1) Where there is an appeal to the Board—

(a) the Board, if it so thinks proper and irrespective of the result of the appeal, may direct the local authority or sanitary authority to pay

(i) to the appellant, such sum as the Board, in its absolute discretion, specified as compensation to the appellant for the expenses occasioned to him in relation to the appeal,

(ii) to the Board, such sum as the Board, in its absolute discretion, specifies as compensation to the Board towards the expense incurred by the Board in relation to the hearing of the appeal;

(b) in case the Board in determining the appeal does not accede in substance to the appellant's grounds of appeal, the Board, if it so thinks proper, may direct the appellant to pay—

(i) to the local authority or sanitary authority, such sum as the Board, in its absolute discretion, specifies as compensation to the local authority or sanitary authority for the expense occasioned to them in relation to the appeal,

(ii) to any of the other parties to the appeal such sum as the Board, in its absolute discretion, specifies, in any or each case, as compensation to the party for the expenses occasioned to him in relation to the appeal,

(iii) to the Board, such sum as the Board, in its absolute discretion, specifies as compensation to the Board towards the expense incurred by the Board in relation to the hearing of the appeal.

(2) Any sum directed under this article to be paid shall, in default of being paid, be recoverable as a simple contract debt in any court of competent jurisdiction.

33. (1) The Board shall notify relevant persons of its decision on an appeal.

(2) Every notification under sub-article (1) shall specify the nature of the decision, including any directions given to the local authority or sanitary authority concerned relating to the granting or revoking of a licence or the attachment, amendment or deletion of conditions.

34. On complying with directions of the Board in relation to a licence, the local authority or sanitary authority shall notify the holder of the licence of such compliance.

35. (1) The Board shall, so far as may in the opinion of the Board be necessary for the performance of its functions, keep itself informed of the policies and objectives for the time being of the Minister, local authorities, sanitary authorities and any other body which is a public authority whose functions have, or may have, a bearing on control of water pollution.

(2) In this article "public authority" means any Minister of the Government (not being the Minister), the Commissioners of Public Works in Ireland and any other body established by or under statute which is for the time being declared, by order made by the Minister, to be a public authority for the purpose of this article.

36. (1) The Minister may, from time to time, give to the Board such general directions as to policy in relation to the prevention and control of water pollution

as he considers necessary.

(2) In performing its functions the Board shall have regard to any direction issued by the Minister under this article.

(3) Whenever the Minister gives a direction under this article, he shall:

(a) cause a copy of the direction to be sent to the Board,

(b) cause to be published in Iris Oifigiuil a notice of the issue of the direction, and

(c) cause a copy of the direction to be sent to each local authority and sanitary authority.

(4) Nothing in this article shall be construed as enabling the Minister to exercise any power or control in relation to any particular case with which the Board is or may be concerned.

PART V REGISTER FEE PAYABLE TO A LOCAL AUTHORITY OR SANITARY AUTHORITY

37. In this Part—

"register" means a register under section 9 of the Principal Act.

38. The prescribed fee for a copy of any entry in a register shall be £5.

PART VI CONTROL OF DISCHARGES TO AQUIFERS

39. In this Part—

any reference to a Schedule is a reference to a Schedule of these Regulations;

any reference to a section or subsection is a reference to a section or subsection of the Principal Act;

"harmful substance" means substances and groups of substances specified in the First Schedule or in the Second Schedule, except where otherwise provided;

"licence" means a licence under section 4 in respect of sewage effluent or trade effluent containing a harmful substance which is discharged to an aquifer;

"licence application" means an application to a local authority for a licence.

40. (1) Without prejudice to the requirements of article 7 of the 1978 Regulations, a licence application shall also be accompanied by the results of a prior investigation unless the applicant can satisfy the local authority concerned that the harmful substance in the sewage effluent or trade effluent is present in so small a quantity and concentration as to obviate present or future danger of deterioration in the quality of the water in the aquifer to which the discharge is proposed to be made.

(2) The prior investigation referred to in sub-article (1) shall include—

(a) an assessment of the environmental impact of alternative methods of disposal of the harmful substance, and

(b) an examination of the aquifer to which the licence application relates in respect of the following—

(i) extent and estimated volume of water therein,

(ii) quality of water therein,

(iii) estimated rate of recharge,

(iv) identification of any existing or proposed uses of the water therein,

(v) the hydrogeological conditions of the area in which the aquifer is located,

(vi) nature and depth of overlying soil and subsoil and its effectiveness in preventing or reducing the entry of the harmful substance to water in the aquifer,

(vii) risk of deterioration in the quality of the water therein due to the entry of the harmful substance,

(viii) risk of the water therein being affected by the harmful substance so as to endanger human health or water supplies, harm living resources and the aquatic ecosystem or interfere with the use of the water for domestic, agricultural, fisheries, commercial, industrial or recreational purposes, and

(ix) such other matters as the local authority may reasonably require

for the purpose of establishing whether the discharge of the harmful

substance to the aquifer is a satisfactory method of disposal having regard to its environmental impact and the results of the assessment referred to in paragraph (a).

(3) The local authority shall take into account the results of the prior investigation obtained under sub-article (2) before deciding to grant or refuse a licence.

41. (1) Subject to sub-article (2) a quality standard of 0 (zero) milligrams per litre is hereby prescribed for sewage effluent and trade effluent discharged to an aquifer in respect of a harmful substance specified in the First Schedule.

(2) A local authority may specify conditions in a licence requiring a standard different from the quality standard prescribed in sub-article (1) in respect of a harmful substance specified in the First Schedule—

(a) where the results of the prior investigation supplied in accordance with article 40 (1) show that the water in the aquifer to which the licence application relates is permanently unsuitable for domestic, commercial, industrial, agricultural, fisheries or recreational uses, and all practical technical precautions have been taken to prevent the entry of the harmful substance to other waters so as to avoid the risk set out in article 40 (2) (b) (vii), or

(b) where the licence application is made in respect of the re-injection into the same aquifer of water used for geothermal purposes, water pumped out of mines and quarries or water pumped out for civil engineering works.

42. In the light of a prior investigation carried out in accordance with the requirements of article 40, a local authority may specify conditions in a licence requiring a standard different from the quality standard prescribed in sub-article (1) of article 41 in respect of a harmful substance specified in the Second Schedule provided that all practical technical precautions are observed to prevent water in an aquifer being affected by that harmful substance in the manner set out in article 40 (2) (b) (viii).

43. Where a local authority grants a licence, and without prejudice to the generality of section 4 (5), it shall attach conditions relating to—

(a) the location of the discharge,

(b) the method of discharge,

(c) requirements including, where appropriate, methods of treatment to ensure that water in an aquifer is not affected by a harmful substance in the manner set out in article 40 (2) (b) (viii), taking into account the nature and concentration of the substance in the effluent discharge, the characteristics of the aquifer and the proximity of other water catchment areas, in particular those used as sources of drinking water or thermal or mineral water,

(d) the maximum quantity of a harmful substance in the effluent discharged during one or more specified periods of time and appropriate requirements as to the concentration of the substance,

(e) arrangements for monitoring the effluent discharge, and

(f) arrangements, where appropriate, for monitoring the quality of water in the aquifer.

44. A licence shall be reviewed by the local authority at intervals of not more than four years.

45. A local authority shall carry out, or cause to be carried out, such monitoring as it considers necessary for the purpose of determining compliance with conditions attached to a licence and the effects of a discharge on water in an aquifer.

46. (1) A quality standard of 0 (zero) milligrams per litre is hereby prescribed for water in an aquifer in respect of a harmful substance specified in the First Schedule which might be caused or permitted to enter the water as a result of any disposal or tipping of the substance or any material containing the substance or any activities on or in the ground.

(2) A local authority shall take all steps as may be appropriate in discharge of their functions under the Principal Act to secure compliance with the quality standard prescribed in sub-article (1).

FIRST SCHEDULE

HARMFUL SUBSTANCES

Individual substances belonging to the following families and groups of substances:—

1. Organohalogen compounds and substances which may form such compounds in the aquatic environment.

2. Organophosphorus compounds.

3. Organotin compounds.

4. Substances which possess carcinogenic, mutagenic or teratogenic properties in or via the aquatic environment, including substances in the Second Schedule which possess such properties in or via the aquatic environment.

5. Mercury and its compounds.

6. Cadmium and its compounds.

7. Mineral oils and hydrocarbons.

8. Cyanides.

SECOND SCHEDULE

HARMFUL SUBSTANCES

Individual substances and categories of substances belonging to the following families and groups of substances:—

1. The following metalloids and metals and their compounds:

- | | |
|----------------------|----------------------|
| 1. Zinc | 11. Tin |
| 2. Copper | 12. Barium |
| 3. Nickel | 13. Peryllium |
| 4. Chrome | 14. Boron |
| 5. Lead | 15. Uranium |
| 6. Selenium | 16. Vanadium |
| 7. Arsenic | 17. Cobalt |
| 8. Antimony | 18. Thallium |
| 9. Molybdenum | 19. Tellurium |
| 10. Titanium | 20. Silver. |

2. Biocides and their derivatives other than those in the First Schedule.

3. Substances which have a deleterious effect on the taste and/or odour of water and compounds liable to cause the formation of such substances in such water and to render it unfit for human consumption.

4. Toxic or persistent organic compounds of silicon and substances which may cause the formation of such compounds in water, excluding those which are biologically harmless or are rapidly converted in water into harmless substances.

5. Inorganic compounds of phosphorus and elemental phosphorus.

6. Fluorides.

7. Ammonia and nitrites.

DATED this 25th day of September, 1992.

MARY HARNEY,

**Minister of State at the Department of
the Environment.**

EXPLANATORY NOTE.

These Regulations provide for various procedural and other matters under the Water Pollution Acts in regard to licence applications and reviews and appeals to An Bord Pleanana in these respects. Time limits are provided for decisions on licence applications by local and sanitary authorities and time limits for determinations in the case of appeals received on or after 1 March, 1993 are also provided as an objective for An Bord Pleanala. The Regulations specify the fees payable in the case of applications, reviews and appeals (including oral hearings). Fees are also prescribed for copies of any entry in a register of licenses to be kept by local and sanitary authorities under the Acts.

Part VI of the Regulations makes further provision for the control of discharges of harmful substances to groundwaters in implementation of Directive 80/68/EEC on the protection of groundwater against pollution caused by certain dangerous substances.

The Regulations come into operation on 1st November, 1992.

