

# S.I. No. 12/2001 — *Water Quality* (Dangerous Substances) Regulations, 2001

## STATUTORY INSTRUMENTS

### S.I. No. 12 of 2001

### *WATER QUALITY* (DANGEROUS SUBSTANCES) REGULATIONS, 2001

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In exercise of the powers conferred on the Minister for the Environment and Local Government by section 30 of the Local Government (*Water* Pollution) Act, 1977 ( No. 1 of 1977 ) and by section 26 of that Act as amended by sections 18 and 29 of the Local Government (*Water* Pollution) (Amendment) Act, 1990 (No. 21 of 1990) , which said powers are delegated to me by the Environment and Local Government (Delegation of Ministerial Functions) (No. 2) Order, 1997 ( 1=">S.I. No. 428 of 1997 ), and for the purposes of giving effect to Directive 2000/60/EC of the European Parliament and of the Council of 23 December 2000(1) establishing a framework for Community action in the field of *water* policy and of giving further effect to provisions of Council Directive 76/464/EEC of 4 May 1976(2) on pollution caused by certain dangerous substances discharged into the aquatic environment I, Dan Wallace, Minister of State at the Department of the Environment and Local Government, hereby make the following Regulations:

1. (1) These Regulations may be cited as the *Water Quality* (Dangerous Substances) Regulations, 2001.

(2) These Regulations shall come into operation on 1 July 2001.

2. 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 which is not otherwise identified is a reference to a sub-article of the article in which the reference occurs;

“the Act of 1992” means the Environmental Protection Agency Act, 1992 (No. 7 of 1992) ;

“the Act of 1996” means the Waste Management Act, 1996 (No. 10 of 1996) ;

“the Agency” means the Environmental Protection Agency established under section 19 of the Act of 1992;

“An Bord Pleanala” means the Board established under the Local Government (Planning and Development) Acts, 1963 to 1999;

“best available techniques” has the meaning assigned to it by Article 11 of Council Directive 96/61/EC of 24 September, 1996 (3) ;

“groundwater” means all **water** which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;

“the Principal Act” means the Local Government (**Water** Pollution) Act, 1977 (No. 1 of 1977) as amended;

“specified standard” means a standard specified in the Schedule to these Regulations, and

“**water** body” means a body of waters, within the meaning of the Principal Act.

3. The specified standards are hereby prescribed and shall apply in relation to all waters (other than groundwater) in accordance with these Regulations.

4. (1) In considering an application made after the commencement of these Regulations for a licence under section 4 or section 16 of the Principal Act, a local authority or a sanitary authority, as the case may be, shall determine the application on the basis of the specified standards applying with immediate effect.

(2) Where a local authority or sanitary authority, as the case may be, carries out a review of a licence in pursuance of section 7 (2A) or 17 (2A) of the Principal Act or otherwise, it shall, subject to article 7, determine the review on the basis of the specified standards being met not later than 5 years after the commencement of these Regulations.

(3) The obligations on a local authority and sanitary authority under this article shall apply to An Bord Pleanala in its determination of an appeal under section 8 or section 20 of the Principal Act.

5. (1) In considering an application made after the commencement of these Regulations for a licence under section 83 of the Act of 1992, the Agency shall, subject

to article 7, determine the application on the basis of the specified standards applying -

- (a) with immediate effect in case where the application relates to an activity other than an established activity, and
- (b) not later than 5 years after the commencement of these Regulations in case where the application relates to an established activity.

(2) Where the Agency carries out a review of a licence in pursuance of section 88(4) of the Act of 1992 it shall, subject to article 7, determine the review on the basis of the specified standards applying not later than 5 years after the commencement of these Regulations.

6. (1) In considering an application made after the commencement of these Regulations for a licence under section 40 of the Act of 1996, the Agency shall determine the application on the basis of the specified standards applying with immediate effect.

(2) The Agency shall, where necessary, and as soon as may be after the commencement of these Regulations, review any licence granted by it under section 40 of the Act of 1996 and shall, subject to article 7, determine the review on the basis of the specified standards applying not later than 5 years after the commencement of these Regulations.

7. The period of 5 years specified in article 4(2), 5(1), 5(2) or 6(2) may be extended for a period not exceeding 5 years if, but only if, the relevant local authority or sanitary authority or the Agency, as the case may be, is satisfied that at least the best available techniques are being used to treat any direct discharge or emission affecting a **water** body.

8. (1) It shall be the duty of the Agency and each local authority and sanitary authority, in the discharge of its functions under the Principal Act, the Act of 1992, the Act of 1996 and any other enactment relating to environmental protection, to take all such steps as may be appropriate -

(a) to ensure that, where the existing condition of a **water** body does not meet a specified standard in relation to a substance, there shall be no disimprovement in the condition of the **water** body in relation to that substance, and

(b) to secure compliance with the specified standards not later than 31 December 2010.

(2) For the purposes of sub-article (1), “existing condition”, in relation to a **water** body, means the condition of the **water** body as most recently determined by a local authority or the Agency prior to the making of these Regulations or, where such condition has not been so determined, the condition of that **water** body as first determined by a local authority or the Agency after the making of these Regulations.

9. (1) A specified standard shall not apply in relation to a **water** body for such period (not exceeding 5 years) after the date specified in article 8 (1) (b) as may be

determined by the Agency where the Agency is satisfied that the **water** body is so affected by human activity that compliance with that standard within that period is not feasible or would be disproportionately expensive.

(2) A specified standard shall not apply in relation to a **water** body where the Agency is satisfied that the **water** body is so permanently affected by naturally occurring conditions or by past human activity that compliance with that standard is not feasible or would be disproportionately expensive.

10. (1) Each local authority shall submit a report to the Agency by 31 July 2002 setting out the measures to be taken by the authority in pursuance of article 8.

(2) Each local authority shall submit to the Agency by the 31 July 2004, a report on the progress made in relation to implementation of measures taken or to be taken by the authority in pursuance of article 8 and further such progress reports shall be so submitted at intervals not exceeding two years thereafter until such date as may be determined by the Minister.

(3) Within 9 months of the deadlines referred to in sub-article (2), the Agency shall prepare and publish reports on the progress made in relation to implementation of these Regulations and shall include in the reports such recommendations as it considers appropriate.

(4) Without prejudice to the generality of sub-articles (1) to (3), a report referred to in this article shall identify each **water** body to which article 9(1) relates and shall specify, in respect of each such **water** body -

- (a) the condition of the **water** body in relation to the relevant specified standard,
- (b) the period determined under article 9(1), and
- (c) the circumstances by reference to which it is considered that compliance with that standard within that period is not feasible or would be disproportionately expensive.

(5) Without prejudice to the generality of sub-articles (1) to (3), a report referred to in this article shall identify each **water** body to which article 9 (2) relates and shall outline, in each such case, the condition of the **water** body in relation to compliance with the relevant specified standard and the circumstances by reference to which the Agency considers that compliance with that standard is not feasible or would be disproportionately expensive.

## SCHEDULE STANDARDS

The annual mean concentration in a **water** body of a substance specified in a Table hereunder shall not exceed the standard specified in the Table in relation to that substance. The standards are expressed in units of ug/l, i.e. micrograms per litre, and

incorporate the notes to the Tables.

TABLE 1

PESTICIDES AND SOLVENTS

Substance	Standard (ug/1)
Atrazine	1.0
Dichloromethane	10.0
Simazine	1.0
Toluene	10.0
Tributyltin	0.001
Xylenes	10.0

The standard for Tributyltin shall apply in relation to tidal waters only and shall be deemed to be met if the results of monitoring for biological effects indicate no reproductive impairment in gastropods.

TABLE 2

METALS AND OTHER SUBSTANCES

Substance	Standard (ug/1) for fresh Waters		Standard (ug/1) for tidal waters
	Hardness of <i>water</i> measured in mg/1 CaCO3		
	≤100	>100	
Arsenic	25	25	20
Chromium	5	30	15
Copper	5	30	5
Cyanide	10	10	10
Fluoride	500	500	1,500
Lead	5	10	5
Nickel	8	50	25

Zinc	(see notes)	100	40
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Values for metals are for total metal concentration (dissolved and colloidal/s.s.).

The term  $\leq 100$  means less than or equal to 100.

The term  $> 100$  means greater than 100.

In the case of Zinc, the standard shall be -

8 ug/1 for **water** hardness less than or equal to 10 mg/1 CaCO<sub>3</sub>

50 ug/1 for **water** hardness greater than 10 mg/1 CaCO<sub>3</sub> and less than or equal to 100 mg/1 CaCO<sub>3</sub>.

Dated this 30<sup>th</sup> day of January 2001

DAN WALLACE

Minister of State at the Department of the Environment  
and Local Government

### EXPLANATORY NOTE

*(This note does not form part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations prescribe **water quality** standards in relation to certain substances in surface waters e.g. rivers, lakes, tidal waters. The substances include certain pesticides, solvents, metals. The Regulations give further effect to EU Council Directive 76/464/EC (the Dangerous Substances Directive) and give effect to certain provisions of EU Directive 2000/60/EC (the **Water** Framework Directive).

(1) O.J. No. L 327/1, 22.12.2000

(2) O.J. No. L 129/23, 18.5.76

(3) O.J. No. L 257/26, 10.10.96