

# S.I. No. 41/1999 — Protection of Groundwater Regulations, 1999.

STATUTORY INSTRUMENTS.

S.I. No. 41 of 1999.

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PROTECTION OF GROUNDWATER REGULATIONS, 1999.

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In exercise of the powers conferred on the Minister for the Environment and Local Government by sections 6, 53 and 59 of the Environmental Protection Agency Act, 1992 (No. 7 of 1992), which said powers are delegated to me by the Environment and Local Government (Delegation of Ministerial Functions) (No. 2) Order, 1997 (S.I. No. 428 of 1997), and for the purpose of giving effect to provisions of Council Directive 80/68/EEC of 17 December, 1979 on the protection of groundwater against pollution caused by certain dangerous substances (\*), I, DAN WALLACE, Minister of State at the Department of the Environment and Local Government, hereby make the following Regulations:—

PART 1

Citation and Interpretation

Citation.

1. These Regulations may be cited as the Protection of Citation. Groundwater Regulations, 1999.

Interpretation

2. (1) In these Regulations, save where the context other- Interpretation. wise requires

—  
“applicant” means an applicant for a licence;

“application” means an application for a licence;

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

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

“aquifer” means any stratum or combination of strata that stores or transmits groundwater;

“the Council Directive” means Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances;

“existing discharge” means a discharge which is similar in nature, composition and temperature to, and is of a similar volume and made at a similar rate to, a discharge made during any corresponding period in the period of twelve months immediately prior to the commencement of these Regulations;

“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;

“harmful substance” means a substance specified in the First Schedule or the Second Schedule;

“licence” means a licence granted by the Agency under these Regulations to authorise the discharge of effluent to an aquifer and includes a revised licence;

“Member State” means a member state of the European Communities, and

“the register” means the register maintained by the Agency or a sanitary authority, as the case may be, in accordance with article 29.

(2) In these Regulations, a reference to “prior investigations” in relation to a discharge or proposed discharge to an aquifer of an effluent which contains a harmful substance, is a reference to such investigations which include—

- (a) an assessment of the environmental impact of alternative methods of disposal of the harmful substance, and
- (b) an examination of the aquifer in respect of—
  - (i) the extent and estimated volume of water therein,
  - (ii) the quality of water therein,
  - (iii) the estimated rate of recharge,
  - (iv) the 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) the nature and depth of any overlying soil and subsoil and its effectiveness in preventing or reducing the entry of the harmful substance to water in the aquifer,

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

(viii) the 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 agricultural, commercial, domestic, fisheries, industrial or recreational purposes,

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.

(3) In these Regulations, a reference to—

(a) an article or a schedule which is not otherwise identified is a reference to an article or schedule, as the case may be, of these Regulations, and

(b) 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.

(4) Where a provision of these Regulations, or of any notice served under these Regulations, enables or requires submissions or observations to be made, or documents, particulars or other information to be submitted, to the Agency 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 principal office of the Agency is 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 Agency on the next following day on which the offices of the Agency are open.

## PART 2

### Control of Discharges to Groundwater

Standards.

3. (1) Subject to sub-article (2), a quality standard of 0 (zero) milligrams per litre is hereby prescribed for the purposes of these Regulations for sewage and any other effluent discharged to an aquifer by or on behalf of a sanitary authority in respect of the harmful substances specified in the First Schedule.

(2) The standard specified in sub-article (1) shall not apply—

(a) where the quantity and concentration of the harmful substances in an effluent is so small as to obviate any present or future danger of deterioration in the quality of water in the aquifer,

(b) in respect of the re-injection into the same aquifer, following prior investigations, of water used for geothermal purposes, water pumped out of

mines or quarries or water pumped out for civil engineering works, or

- (c) (i) where the results of prior investigations show that the water in the aquifer is permanently unsuitable for agricultural, commercial, domestic, fisheries, industrial or recreational uses, and
- (ii) all practical technical precautions have been taken to prevent the entry of the harmful substance to other waters and to prevent harm to other ecosystems.

Prohibition on discharge of certain effluents to groundwater without licence.

4. (1) Subject to this article, a sanitary authority shall not cause or permit the direct discharge by or on behalf of the sanitary authority to an aquifer of an effluent which contains a harmful substance save under and in accordance with a licence.

(2) Sub-article (1) does not apply in relation to a discharge arising from an activity in relation to which a licence is required under Part IV of the Act of 1992 or Part V of the [Waste Management Act, 1996 \(No. 10 of 1996\)](#) .

(3) Sub-article (1) does not apply in relation to a discharge of matter containing a radioactive substance within the meaning of the [Radiological Protection Act, 1991 \(No. 9 of 1991\)](#) .

(4) Sub-article (1) does not apply in relation to an existing discharge in the period prior to the grant or refusal of a licence provided that—

- (i) an application for a licence in relation to the discharge has been made to the Agency prior to 30th day of April, 1999,
- (ii) a notice has not been issued under article 8(2)(a) by the Agency in relation to the application,
- (iii) the application has not been withdrawn by the applicant, and
- (iv) the application has not been declared under article 17 by the Agency to have been withdrawn.

(5) In this article, “direct discharge” in relation to the discharge of an effluent to an aquifer, means the discharge of such effluent to an aquifer without percolation through the ground or subsoil.

Agency may grant or refuse licence.

5. (1) A sanitary authority may apply to the Agency in accordance with these Regulations for a licence.

(2) On application being made to it by a sanitary authority for a licence, the Agency may, subject to these Regulations, grant a licence or refuse to grant a licence.

Notice of intention to apply for licence.

6. (1) A sanitary authority shall, within the period of two weeks before the making of an application, publish notice in a newspaper circulating in the functional area of the authority of the intention of the authority to make such an application.

(2) A notice published pursuant to sub-article (1) shall—

(a) contain as heading the words “DISCHARGE OF EFFLUENT TO GROUNDWATER”;

(b) give the name and address of the applicant;

(c) indicate that the applicant intends to apply to the Agency for a licence to discharge effluent to groundwater;

(d) state the name and location of the premises from which the effluent is, or is to be, discharged;

(e) give a general description of the effluent and, in the case of trade effluent, state the nature of the trade or industry;

(f) indicate the waters to which the effluent is, or is to be, discharged, and

(g) state that a copy of the application and related documents are available for inspection or purchase at the principal office of the local authority and will, as soon as is practicable after receipt by the Agency, be available for inspection or purchase at the principal office of the Agency.

(3) Where a period of more than two weeks has elapsed between the publication in a newspaper of a notice of an application and the making of the application, the Agency shall by notice in writing require the applicant to publish such further notice, in such manner and in such terms as it may specify and to submit to the Agency such evidence as it may specify in relation to compliance with any such requirement.

Application for a licence.

7. (1) An application shall be submitted to the principal office of the Agency.

(2) An application shall be in such form as may be specified from time to time by Agency.

(3) An application shall contain such information in relation to matters of the type set out in the Third Schedule as may be specified by the Agency.

(4) An application shall be accompanied by such documents and other matters of the type set out in the Fourth Schedule as may be specified by the Agency.

(5) An application shall be accompanied by a fee of such amount as may be specified

by the Agency having regard to the nature and complexity of the application save, however, that the amount of the fee so specified shall not exceed the reasonable costs likely to be incurred by the Agency in deciding the application.

(6) All or part of an application and associated documents may, with the consent of the Agency, be submitted in computer or other form.

### PART 3

#### Consideration of Application

Procedure on receipt of application.

8. (1) On receipt of an application the Agency shall—

- (a) stamp the application with the date of receipt,
- (b) send to the applicant an acknowledgment of receipt of the application, and
- (c) examine the application as to compliance with the requirements of articles 6 and 7.

(2) Where the Agency considers that any requirement of article 6 or 7 has not been complied with in respect of an application it shall, as it considers appropriate having regard to the extent of the failure to comply with the said requirement, by notice in writing—

- (a) inform the applicant of such failure of compliance and that the application cannot be considered further by the Agency, or
- (b) require the applicant, within such period as may be specified in the notice, to take such steps or furnish such submissions, plans, documents or other information and particulars as the Agency considers are necessary for compliance with the said requirement.

(3) Where the Agency gives a notice in accordance with sub-article (2) (a)—

- (a) it shall return to the applicant all copies of the application and associated documents, and
- (b) it shall not give any further consideration to the application.

Power of Agency to require further information from applicant.

9. (1) The Agency may, by notice in writing, require an applicant—

- (a) to furnish such further information or particulars relating to an application as the Agency may specify in the notice,
- (b) to produce such evidence as the Agency may reasonably require in order to verify any information or particulars furnished by the applicant in, or in relation to, the application, and
- (c) to carry out or cause to be carried out such investigations or further investigations as it considers necessary to comply with the requirements of articles 4, 5 and 7 of the Council Directive.

(2) Where there is a failure or refusal to comply with a requirement under sub-article (1) within one month of the date of notice of the requirement, the Agency may, if it thinks fit, proceed with its consideration of the application and, without prejudice to any other provision of these Regulations, may grant or refuse to grant a licence in the absence of the information, particulars or evidence specified in the notice.

(3) In the case of a failure or refusal to comply with a requirement under sub-article (1) (c), the Agency shall not grant a licence unless the Agency has carried out or caused to be carried such investigations as it considers are necessary to comply with the requirements of articles 4, 5 and 7 of the Council Directive.

Impact on the environment in another Member State.

10. (1) Where the Agency receives an application (other than an application in respect of which a notice in accordance with article 8(2)(a) has been or will be given) and it appears to the Agency that the activity, the subject of the application—

- (i) has or is likely to have a significant impact on the environment in another Member State, or
- (ii) gives rise or may give rise to the direct or indirect discharge of a harmful substance into transfrontier groundwater,

the Agency shall, as soon as may be after receipt of the said application, give notice in writing of the application to the appropriate competent authority in the Member State concerned.

(2) Upon request by the competent authority in a Member State, the environment of which is or is likely to be significantly affected by an activity which is the subject of an application under this Part (other than an application in respect of which a notice in accordance with article 8(2)(a) has been or will be given), the Agency shall, as soon as may be, forward to the said authority the material specified in sub-article (3).

(3) A notice given in accordance with sub-article (1) shall be accompanied by a copy of the relevant application and of all accompanying documents and particulars and shall as a minimum indicate—

- (a) that the notification is for the purpose of giving effect to Article 17 of Council Directive 80/68/EEC,

- (b) the date of receipt of the application,
- (c) the reference number given to the application in the register,
- (d) the name and address of the applicant.
- (e) the location or postal address including, where appropriate, the name of the relevant townland (or townlands) and the National Grid reference of the premises to which the application relates.
- (f) the nature of the activity carried on, or to be carried on, in the premises,
- (g) the nature of the relevant discharges to transfrontier groundwater or other impacts on the environment of the Member State concerned, as the case may be, and
- (h) that the competent authority concerned may, within a period of four weeks from the date of such notice, make a written submission to the Agency or request consultations with the Agency in relation to the application.

(4) The Agency shall notify the Minister of any notice given in accordance with sub-article (1) or any request to which sub-article (2) relates.

(5) The Agency shall comply with any reasonable request for consultations in relation to the said application which is received from a relevant competent authority within the period specified in sub-article (3)(h).

(6) The Commission of the European Communities may participate in any consultations arising under sub-article (5).

Notice to be given to certain persons by Agency.

11. (1) Where the Agency receives an application (other than an application in respect of which a notice in accordance with article 8(2)(a) has been or will be given) it shall notify such public authorities, bodies or other persons, if any, as the Agency considers appropriate having regard to the nature and extent of the activity to which the application refers.

(2) A notice given under sub-article (1) shall indicate, as a minimum—

- (a) the reference number given to the application in the register,
- (b) the name and address of the applicant,
- (c) the name and location or postal address (including, where appropriate, the name of the relevant townland or townlands) and the National Grid reference of the premises and the point or points of discharge to which the application relates,

(*d*) give a general description of the effluent and, in the case of trade effluent, state the nature of the trade or industry, and

(*e*) indicate the waters to which the effluent is, or is to be, discharged.

Availability and inspection of documents.

12. (1) The Agency shall make the documents and other items specified in sub-article (2) in relation to an application available for public inspection during office hours at the principal office of the Agency from as soon as may be after receipt of the documents and other items or the giving of notice, as the case may be, for a period of not less than 2 months following the day on which the Agency gives notice under article 21 of its decision on the application.

(2) The following are specified for the purposes of sub-article (1)—

(*a*) an application,

(*b*) such notices as are given by the Agency under these Regulations in respect of the application, and

(*c*) such submissions, plans, documents and other information and particulars and such evidence and objections as are received or obtained by the Agency from an applicant or any other person in accordance with these Regulations in respect of the application.

(3) An applicant shall make the documents and other items specified in sub-article (4) available for public inspection during office hours at the principal office of the applicant from as soon as may be after they have been submitted to or received from the Agency, as the case may be, for a period of not less than 2 months following the day on which the Agency gives notice under article 21 of its decision on the application.

(4) The following are specified for the purposes of sub-article (3)—

(*a*) the application,

(*b*) such notices as are received by the applicant from the Agency under these Regulations in respect of the application, and

(*c*) such submissions, plans, documents and other information and particulars and such evidence and objections as are submitted by the applicant to the Agency in accordance with these Regulations.

(5) During the relevant periods specified in sub-articles (1) and (3), a copy of the documents specified in those sub-articles, or any extract therefrom, shall be made available on request during office hours at the principal office of the Agency and the applicant, as the case may be, for purchase at such charge (if any), not exceeding the reasonable cost of making such copies, as the Agency or applicant may determine.

(6) An applicant shall comply with any reasonable request from the Agency for such

further number of copies as the Agency may specify of all documents and particulars relating to an application.

(7) Without prejudice to articles 10 and 11, the Agency shall not be obliged to notify any person of the receipt by the Agency of documents, plans, submissions or other information or particulars in accordance with this Part.

Submissions to Agency in relation to application.

13. (1) A person may, within the period of one month following the making available by the Agency for inspection, in accordance with article 12, of—

(a) an application, and

(b) such plans, documents, information and other materials as are submitted by the applicant in accordance with articles 7 and 8,

make a written submission to the Agency in relation to the application.

(2) A submission made to the Agency in relation to an application may be withdrawn at any time by the person who made it.

Time to be allowed for making submissions.

14. The Agency shall not give notice under article 21 of a decision in relation to an application before the expiry of the period of one month specified in article 13.

Power of Agency to request submission.

15. Where the Agency is of the opinion that, in the particular circumstances of an application, it is appropriate to request a person to make a submission or further submission in relation to any matter which has arisen in relation to the application, the Agency may, in its discretion, give a notice under this article—

(a) requesting the person, within a period specified in the notice (not being less than fourteen or more than twenty-eight days beginning on the date of the giving of the notice) to make to the Agency a submission in writing in relation to the matter in question, and

(b) stating that, if a submission in writing is not received before the expiration of the period specified in the notice, the Agency will, after the expiration of that period and without further notice to the person, proceed with its consideration of the application and make a decision in respect of the application.

Matters to be considered by Agency.

16. In considering an application the Agency shall have regard to—

(a) any relevant water quality management plan under [section 15 of the Local Government \(Water Pollution\) Act, 1977 \( No. 1 of 1977 \)](#),

- (b) the application and any information, documents, evidence, particulars, submissions and other matters duly submitted by any person in relation to the application,
- (c) where appropriate, the views of another Member State in relation to the effect on the environment of the discharge to which the application relates,
- (d) any documents, particulars or other information received by the Agency from any person in accordance with these Regulations, and
- (e) such other matters in relation to the prevention, limitation, elimination, abatement or reduction of environmental pollution as it considers appropriate including, in the case of a review, the matters specified in article 27.

Withdrawal or abandonment of an application.

17. (1) An application may be withdrawn by the applicant at any time before the making of a decision by the Agency to grant or refuse to grant a licence.

(2) Where the Agency is of the opinion that an application has been abandoned, it may give to the applicant 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 not more than twenty-eight days beginning on the date of the giving of the notice), to make to the Agency a submission in writing as to why the application should not be regarded as having been withdrawn.

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

(4) Where pursuant to this article the Agency declares that an application is to be regarded as having been withdrawn, the application shall not be further considered by the Agency.

## PART 4

### Grant of Licence and Conditions Attached to Licence

Conditions which may be attached to a licence.

18. The Agency may attach to a licence conditions in relation to—

- (a) the keeping of records by the licensee in relation to the discharge to which the licence refers,
- (b) the provision of information to the Agency by the licensee,

- (c) the date or dates by which a condition shall be complied with,
- (d) the payment to the Agency of a financial contribution or contributions towards the costs incurred, or likely to be incurred, by the Agency in relation to investigations, monitoring or otherwise in connection with the licence,
- (e) the making, and the provision of evidence as to the making, of such financial provision as the Agency may specify (which may include the entering into of a bond or other security) as will, in the opinion of the Agency, be adequate to discharge the financial commitments and liabilities which are likely to be incurred by the licensee in carrying on the activity concerned in compliance with the terms of the licence,
- (f) any matters of the type specified in section 84 (1) of the Act (insofar as such matters are not otherwise specified in article 19 or this article), and
- (g) such other matters as the Agency considers appropriate for the purposes of environmental protection and compliance with the Council Directive.

Conditions which shall be attached to a licence.

19. (1) The Agency shall attach to a licence such conditions as it considers necessary in relation 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 the aquifer is not adversely affected by the discharge of a harmful substance taking into account the nature and concentration of the substance in the 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 period of time and appropriate requirements as to the concentration of the substance,
- (e) arrangements for monitoring the effluent and the discharge of effluent,
- (f) arrangements, where appropriate, for monitoring the quality of water in the aquifer,
- (g) notice to be given to the Agency in relation to the cesser of the discharge to which the licence relates, and
- (h) such other matters as the Agency considers are necessary to give effect to the Council Directive.

(2) In this article, “adversely affected”, in relation to groundwater to which a harmful

substance is or is proposed to be discharged, means affected by the harmful substance in a manner and to an extent which endangers human health or water supplies, harms living resources and the aquatic ecosystem or interferes with the use of the water for agricultural, commercial, domestic, fisheries, industrial or recreational uses.

Prohibition on grant of licence in certain circumstances.

20. (1) Subject to sub-article (4), the Agency shall not grant a licence in relation to the discharge of an effluent which contains a harmful substance specified in the First Schedule.

(2) The Agency shall not grant a licence unless the applicant or the Agency has carried out or caused to be carried out such investigations as the Agency considers necessary to comply with the requirements of articles 4, 5 and 7 of the Council Directive.

(3) The Agency shall not grant a licence unless it is satisfied that the discharge of effluent will be made in a manner which complies with the requirements of the Council Directive.

(4) Notwithstanding the provisions of sub-article (1), a licence in relation to the discharge of an effluent which contains a harmful substance specified in the First Schedule may be granted by the Agency—

- (a) where the Agency is satisfied that the harmful substance is present in so small a quantity and concentration as to obviate present or future deterioration of the quality of water in the aquifer,
- (b) in respect of the re-injection into the same aquifer, following prior investigations, of water used for geothermal purposes, water pumped out of mines or quarries or water pumped out for civil engineering works, or
- (c) (i) where the results of prior investigations show that the water in the aquifer is permanently unsuitable for agricultural, commercial, domestic, fisheries, industrial or recreational uses, and
  - (ii) all practical technical precautions have been taken to prevent the entry of the harmful substance to other waters and to prevent harm to other ecosystems.

Notice of Agency's decision on an application.

21. (1) The Agency shall give notice of its decision on an application to the applicant and such notice shall be accompanied by a copy of the decision.

(2) The Agency shall give notice of its decision on an application to—

- (a) each person to whom notice was given by the Agency in accordance with article 10 or 11, and
- (b) each person who made a submission to the Agency in accordance with article

13 in relation to the application.

(3) A notice given by the Agency under sub-article (2) shall indicate whether the decision is a decision—

- (a) under article 5 to grant a licence,
- (b) under article 5 to refuse to grant a licence,
- (c) under article 8 that the Agency cannot consider the application further, or
- (d) under article 17 that the application is regarded as having been withdrawn

and shall indicate where a copy of the decision may be obtained.

Grant of licence. 22. Where the Agency decides to grant a licence, the Agency shall as soon as may be grant a licence to the applicant.

## PART 5

### Review of Licences

Review of licences. 23. (1) A licence granted by the Agency shall be reviewed by the Agency at intervals not exceeding four years from the day on which the licence was granted or last reviewed, as the case may be.

(2) The Agency may review a licence at any time in cases where—

- (a) there has been a material change in the nature of the activity giving rise to the discharge, or in the nature or extent of the discharge, or of the location in which the said activity is carried on or an adjacent area,
- (b) there has been a material change, which could not reasonably have been foreseen when the licence was granted, in the condition of the environment in the area in which, or the aquifer or waters to which, the discharge is made,
- (c) evidence has become available which was not available when the licence was granted and would have materially affected the decision of the Agency in relation to the grant of the licence or the conditions subject to which the licence was granted, or
- (d) new standards or requirements are prescribed under the Act, the [European Communities Act, 1972 \(No. 27 of 1972\)](#) or any act adopted by an institution of the European Communities relating to the conduct of the activity giving rise to the discharge, the content or nature of the discharge concerned or other emissions from that activity or their effects on the environment.

(3) The Agency may review a licence at any time with the consent of the licensee and such a consent may not be withdrawn by the licensee save with the consent of the Agency.

(4) The holder of a licence may at any time apply to the Agency for a review of the licence and such an application may not be withdrawn by the applicant save with the consent of the Agency.

Discretion available to Agency as to reviews.

24. (1) On the review by the Agency of a licence in accordance with sub-article (1), (2) or (3) of article 23, the Agency may—

- (a) review and renew the licence without revision, or
- (b) review the licence and grant a revised licence in substitution for the licence reviewed.

(2) On application being made to it for the review of a licence in accordance with article 23(4), the Agency may, subject to these Regulations—

- (a) refuse to review the licence,
- (b) review and renew the licence without revision, or
- (c) review the licence and grant a revised licence in substitution for the licence reviewed.

Provisions which apply in the case of review initiated by Agency.

25. (1) Where the Agency intends to review a licence in accordance with sub-article (1), (2) or (3) of article 23, it shall give notice in writing to the licensee and shall publish notice of its intention in a newspaper circulating in the functional area of the sanitary authority which is the licensee.

(2) A notice under sub-article (1) shall—

- (a) indicate the reference numbers given to the licence and the proposed review in the register maintained by the Agency under article 29,
- (b) state the reason for the proposed review,
- (c) indicate that submissions relating to the proposed review may be made to the Agency within one month of the date of the giving of the notice, and
- (d) contain such other information or matters as the Agency considers appropriate.

(3) A notice given under sub-article (1) to a licensee may require the licensee to furnish such information, particulars, plans, documents and other matters as may be

specified in the notice.

(4) The provisions of articles 9 to 22 inclusive (other than article 17) shall, with any necessary modifications, apply in relation to a review of a licence in accordance with sub-articles (1), (2) or (3) of article 23.

(5) Without prejudice to the generality of sub-article (4), in the case of a review of a licence in accordance with sub-article (1), (2) or (3) of article 23, references in articles 9 to 22 inclusive (other than article 17) to—

(a) an applicant shall include reference to a licensee,

(b) an application shall include reference to a review, and

(c) the period of one month specified in articles 13 and 14 shall mean the period of one month commencing on the date of giving of notice under sub-article (1).

Provisions which apply in the case of an application for review.

26. (1) The provisions of article 6 to 22 inclusive (other than sub-article (1) of article 17) shall, with any necessary modifications, apply in relation to an application by the holder of a licence for the review of a licence.

(2) Without prejudice to the generality of sub-article (1), in the case of an application by the holder of a licence for a review of the licence, any reference in articles 6 to 22 inclusive (other than article 17(1)) to—

(a) an applicant for a licence shall include reference to an applicant for the review of a licence, and

(b) an application for a licence shall include reference to an application for a review of a licence.

(3) A notice under article 6 in relation to an application for the review of a licence shall, in addition to the requirements of that article—

(a) indicate the reference number given to the licence in the register maintained by the Agency under article 29,

(b) state the reason for the proposed review.

Additional provisions in relation to reviews.

27. Without prejudice to article 16, the Agency shall, in the review of a licence, have regard to—

(a) any change in environmental quality in the area in which the activity to which the licence relates is situate, and

- (b) the development of technical knowledge in relation to environmental pollution and the effects of such pollution.

since the licence was granted or last reviewed.

## PART 6

### Miscellaneous

Monitoring by  
Agency.

28. The Agency shall carry out or cause to be carried out such monitoring as it considers necessary in relation to—

- (a) the effects on groundwaters of a discharge in relation to which a licence has been granted, and
- (b) compliance with the conditions attached to a licence.

Registers.

29. (1) A register shall be maintained for the purposes of these Regulations by—

- (a) the Agency,
- (b) a sanitary authority which applies or has applied for a licence, and
- (c) any other sanitary authority that receives a notification from the Agency under sub-article (7).

(2) The register shall be kept at the principal office of the sanitary authority or the Agency, as the case may be, and shall be available for inspection by any person during office hours.

(3) Where a request is made to a sanitary authority or the Agency for a copy of an entry in a register, the authority or the Agency, as the case may be, shall issue such a copy to the person who made the request on, if it so requires, payment of a fee of such amount (not exceeding the reasonable cost of making the copy) as it may determine.

(4) Every document purporting to be a copy of an entry in a register maintained by a sanitary authority or the Agency, as the case may be, and purporting to be signed by an officer of the authority or the Agency to be a true copy of the entry shall, without proof of the signature of the person purporting so to certify or that he or she was such an officer, be received in evidence in any legal proceedings and shall, until the contrary is proved, be deemed to be a true copy of the entry and to be evidence of the terms of the entry.

(5) Evidence of an entry in a register may be given by production of a copy thereof certified pursuant to this article and it shall not be necessary to produce the register itself.

(6) A register may be kept in computer or other form which is capable of being used to make a legible copy or reproduction of any entry in the register and references in these Regulations to a copy of an entry in a register shall be construed as including references to such a legible copy or reproduction.

(7) The Agency shall—

(a) assign a reference number in the register to—

(i) each application for a licence,

(ii) each licence, and

(iii) each review of a licence,

(b) make such entries in the register as are specified in the Fifth Schedule, and

(c) notify a sanitary authority as soon as may be of every entry in the register maintained by the Agency which relates to a discharge made, or proposed to be made by, or in the functional area of, the sanitary authority.

(8) The register to be maintained by a sanitary authority under sub-article (1) shall—

(a) contain entries specifying the particulars of all notifications made to the authority by the Agency under sub-article (7),

(b) be incorporated as a separate part in the register maintained by the sanitary authority under [section 9 of the Local Government \(Water Pollution\) Act, 1977 \(No. 1 of 1977\)](#).

Contribution towards costs incurred by Agency.

30. (1) The Agency may, by notice in writing, require an applicant or licensee, as the case may be, to defray or contribute towards the costs of any investigations carried out or caused to be carried out by the Agency and any costs otherwise incurred by the Agency in relation to an application for a licence (including an application which has been withdrawn) or in relation to the review of a licence.

(2) The amount of any contribution required under sub-article (1), taken together with such fee as may be payable under article 7, shall not exceed the reasonable costs incurred by the Agency in relation to the relevant application or review.

(3) An applicant or licensee shall comply with any requirement of a notice under sub-article (1) within such period, being a period of not less than three weeks, as may be specified in the said notice.

Duty of Agency to deal expeditiously with applications

31. It shall be the duty of the Agency to ensure that a decision by the Agency in respect of an application or a review of a licence is given as expeditiously as may be

and reviews. and for that purpose, the Agency shall take all such steps as are open to it to ensure that, insofar as is practicable, there are no avoidable delays at any stage in the determination of any such application or the completion of any such review.

Prohibition on provision of false information.

32. A person shall not provide to the Agency any information, particulars or evidence which he or she knows to be false or misleading in a material respect in connection with an application for a licence or in connection with a review of a licence.

## FIRST SCHEDULE

### Harmful Substances (List I)

Articles 2.

3 and

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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 (List II)

Articles 2

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. Beryllium |
| 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.

THIRD SCHEDULE

Information and particulars in an application

Article 7

- (a) The name, address and, where applicable, a telephone number and telefax number of the applicant and, if different, the address to which correspondence relating to the application should be sent.
- (b) The location or postal address (including where appropriate the name of the townland or townlands) and the National Grid reference of the premises and the point of discharge to which the application relates.
- (c) The nature of the facility or premises.
- (d) The plant, methods, processes and operating procedures of the facility giving rise to the discharge.
- (e) The composition, level, location, nature, quantity, rate, source and temperature of the effluent and the period, or periods, during which effluent is, or is to be, discharged.
- (f) Details, and an assessment of the effects, of the discharge on the environment including any environmental medium other than the aquifer into which the effluent is to be discharged.
- (g) Monitoring and sampling points and the proposed arrangements for monitoring the effluent and the environmental impact of the discharge of the effluent.
- (h) The existing and proposed measures, including emergency measures, to prevent unauthorised or unexpected discharges and to minimise the impact on the environment of any such discharge.
- (i) A non-technical summary of information provided in relation to the matters specified at paragraphs (c) to (h).

FOURTH SCHEDULE

Documents and other matters accompanying an application

Article 7

- (a) Such plans and such other particulars as are necessary to describe the premises,

drainage system and any works, apparatus or plant from which the effluent is or is to be discharged and to identify the waters to which the discharge is or is to be made and the point or points of discharge.

- (b) Copies of such plans, including site plan and location map, and such other reports and supporting documentation as are necessary to identify—
  - (i) the point or points from which discharges are, or are to be, made,
  - (ii) the point or points at which monitoring and sampling are or are to be undertaken.
- (c) An assessment, based on prior investigations, of whether the discharge of the substances into groundwater is an environmentally satisfactory solution.
- (d) Copies of the relevant page of the newspaper in which a notice was published in accordance with article 6.
- (e) Copies of the application and all accompanying documents.

## FIFTH SCHEDULE

### Agency Register

#### Article 29

1. The register maintained by the Agency shall contain entries specifying the following matters in relation to each application for a licence, or for review of a licence, and each review of a licence—

- (a) the reference number in accordance with article 29,
- (b) the name and address of the applicant or the licensee, as the case may be,
- (c) the location or postal address (including where appropriate the name of the townland or townlands) and the National Grid reference of the facility to which the application relates,
- (d) the date of receipt of the application,
- (e) the date of a notice given by the Agency under article 25 of its intention to review a licence,
- (f) the date of a declaration by the Agency under article 17 as to the abandonment of an application,
- (g) the date on which notice is given under article 21 and whether the decision is to grant or refuse to grant a licence or revised licence,

(h) where applicable, the date on which the licence or revised licence is granted and the reference number of that licence.

2. The register maintained by the Agency shall, for the purposes of article 15 of the Council Directive, contain—

- (a) an inventory of licences granted by the Agency,
- (b) an entry specifying the reference number in the register maintained by the Agency under section 89 of the Act of any licence granted by the Agency under Part IV of that Act in relation to an activity which involves the discharge to an aquifer of an effluent which contains a harmful substance,
- (c) an entry specifying the reference number in the register maintained by the Agency under section 19 of the Waste Management Act, 1996 of any waste licence granted by the Agency under Part V of that Act which involves the discharge to an aquifer of an effluent which contains a harmful substance.

3. The register maintained by the Agency shall contain—

- (a) an entry specifying the date of receipt of any notice that the discharge to which a licence relates has ceased, and
- (b) where the Agency brings proceedings against a person in respect of a contravention of any provision of these Regulations and the person is convicted of the offence, the name and address of the person concerned, the nature of the offence and the penalties, if any, imposed.

DATED this 12th day of February, 1999.

DAN WALLACE,

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

#### EXPLANATORY NOTE.

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

These Regulations are intended to provide additional protection for groundwater against discharges of certain dangerous substances. The Regulations—

prohibit the discharge by sanitary authorities of certain dangerous substances to groundwater, and

provide for controls by the Environmental Protection Agency, by way of a licensing system, in relation to discharges of other such substances by sanitary

authorities.

The Regulations are made under the [Environmental Protection Agency Act, 1992](#) and give further effect to EU Council Directive 80/68/EEC (“the Groundwater Directive”).

\*O.J. No. L20/43, 26 January 1980.

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