

S.I. No. 42/1999 — Local Government (Water Pollution) (Amendment) Regulations, 1999.

STATUTORY INSTRUMENTS.

S.I. No. 42 of 1999.

LOCAL GOVERNMENT (WATER POLLUTION) (AMENDMENT) REGULATIONS, 1999.

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LOCAL GOVERNMENT (WATER POLLUTION) (AMENDMENT) REGULATIONS, 1999.

In exercise of the powers conferred on the Minister for the Environment and Local Government by section 26 of the Local Government (Water Pollution) Act 1977 (No. 1 of 1977), as amended by sections 18 and 29 of the Local Government (Water Pollution) (Amendment) Act, 1990 (No. 21 of 1990) and section 59 of the Environmental Protection Agency Act, 1992 (No. 7 of 1992), and by section 30 of the Local Government (Water Pollution) Act, 1977 , 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 further effect to the 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:—

1. These Regulations may be cited as the Local Government (Water Pollution) (Amendment) Regulations, 1999.

2. The Local Government (Water Pollution) Regulations, 1992 (S.I. No. 271 of 1992), as amended by the Local Government (Water Pollution) (Amendment) Regulations, 1996 (S.I. No. 184 of 1996), are hereby amended by the substitution for Part VI thereof of the following Part:—

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) 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 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,
- (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, 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 article 47, 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) Subject to article 47, 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.

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. All such steps as may be appropriate to secure compliance with the quality standards specified in article 41 shall, subject to article 47, be taken by—

- (a) a local authority in the discharge of its functions under the Principal Act and the Waste Management Act, 1996 (No. 10 of 1996) ,
- (b) An Bord Pleanála in the discharge of its functions under the Principal Act, and
- (c) the Environmental Protection Agency in the discharge of its functions under the Principal Act, the Environmental Protection Agency Act, 1992 (No. 7 of 1992) and the Waste Management Act, 1996 .

47. (1) Article 41 shall not apply in a case where a local authority, An Bord Pleanála or the Environmental Protection Agency, as the case may be, finds that the harmful substance is present in so small a quantity and concentration as to obviate present or future danger of deterioration of the quality of water in the aquifer.

(2) A local authority, An Bord Pleanála or the Environmental Protection Agency, as the case may be, may specify a standard different from the standard specified in Article 41(1) in respect of the discharge or entry to an aquifer of a harmful substance specified in the First Schedule—

- (a) where the results of a prior investigation show that the water in the aquifer is permanently unsuitable for agricultural, commercial, domestic, fisheries, industrial 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)(viii), or
- (b) in respect of the re-injection into the same aquifer, following prior investigation, of water used for geothermal purposes, water pumped out of mines or quarries or water pumped out for civil engineering works.”.

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 amend Part VI of the Local Government (Water Pollution) Regulations, 1992. The purpose is to extend the application of certain water quality standards under those Regulations to a wider range of functions performed by local authorities, the Environmental Protection Agency and An Bord Pleanála under the Local Government (Water Pollution) Acts, the Environmental Protection Agency Act, 1992 and the Waste Management Act, 1996 .

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