



STATUTORY INSTRUMENTS.

S.I. No. 684 of 2007



WASTE WATER DISCHARGE (AUTHORISATION) REGULATIONS
2007

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WHEREAS, I, JOHN GORMLEY, Minister for the Environment, Heritage and Local Government, having regard to section 3(3) of the European Communities Act 1972 (as inserted by section 2 of the European Communities Act 2007) (hereinafter referred to as the Act of 1972), consider it necessary for the purpose of giving full effect to Directive 2006/11/EC of the European Parliament and of the Council of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community¹ and Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy² to make provision for offences under the following regulations to be prosecuted on indictment:

AND WHEREAS, I consider that it is necessary, having further regard to section 3(3) of the Act of 1972, and for the purpose of ensuring that penalties in respect of an offence prosecuted in that manner under the following regulations are effective, proportionate and have a deterrent effect, having regard to the acts or omissions of which the offence consists, to make such provision in the following regulations:

NOW THEREFORE, I, JOHN GORMLEY, Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) as amended by the European Communities Act 2007 (No. 18 of 2007) and for the purpose of giving further effect to Directive 2006/11/EC of the European Parliament and of the Council of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community¹ and Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy², hereby make the following Regulations:

PART I

GENERAL

Citation and commencement

1. (1) These Regulations may be cited as the Waste Water Discharge (Authorisation) Regulations 2007.

(2) These Regulations shall come into operation with immediate effect.

¹OJ No. L 64, 4.3.2006

²OJ No. L 327, 22.12.2000

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 9th October, 2007.*

Purpose of the Regulations

2. (1) The purpose for which these Regulations are made is to prevent and reduce the pollution of waters by waste water discharges by giving effect to Article 6 of the Dangerous Substances Directive and includes the purpose of implementing the following measures required under the Water Framework Directive—

- (a) measures required to achieve the environmental objectives established under Article 4(1)(a), 4(1)(b) and 4(1)(c) of that Directive in relation to surface waters, groundwater and protected areas;
- (b) measures required in accordance with the requirements of Article 7(2) and 7(3) of that Directive to ensure the necessary protection of bodies of water used for the abstraction of drinking water;
- (c) measures required in accordance with Article 16(1) and 16(8) of that Directive with the aim of progressively reducing pollution of surface waters by priority substances and the ceasing or phasing out of emissions, discharges and losses of priority hazardous substances;
- (d) measures required in accordance with the requirements of Article 17(1) of that Directive to prevent and control pollution of groundwater; and
- (e) measures adopted in accordance with the provisions of Article 22(3)(b) of that Directive applying, for the purpose of Article 6 of the Dangerous Substances Directive, the principles for the identification of pollution problems and the substances causing them, the establishment of quality standards and the adoption of measures laid down in the Water Framework Directive.

(2) The Regulations have the purpose of giving effect, in relation to discharges, losses and emissions of pollutants from waste water works, to the obligation under Article 11(3)(g) of the Water Framework Directive requiring prior regulation of point source discharges liable to cause pollution.

(3) These Regulations further include the purpose of giving effect to measures required under the following Directives—

- (a) The Birds Directive³;
- (b) The Groundwater Directives⁴;
- (c) The Drinking Water Directive⁵;

³Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ No. L 103, 25.4.1979)

⁴Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances (OJ No. L 20, 26.1.1980) and Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration (OJ No. L 372, 27.12.2006)

⁵Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption (OJ No. L 330, 5.12.1998)

- (d) The Urban Waste Water Treatment Directive⁶;
- (e) The Habitats Directive⁷;
- (f) The Bathing Water Directive⁸.

Interpretation

3. In these Regulations, save where the context otherwise requires,—

“Act of 2000” means the Planning and Development Act 2000 (No. 30 of 2000) as amended;

“Agency” means the Environmental Protection Agency;

“agglomeration” means an area where the population or economic activities or both are sufficiently concentrated for a waste water works to have been put in place;

“application” means—

- (a) in Parts III, IV and V an application by or on behalf of a water services authority for a licence or for the review of a licence and includes the furnishing of documentation and information to the Agency under Regulation 14(7)(a),
- (b) in Part VI an application by or on behalf of a water services authority for a certificate or for the review of a certificate and includes the furnishing of documentation and information to the Agency under Regulation 24, and
- (c) in Parts II, VII and VIII an application by or on behalf of a water services authority for a licence or certificate or for the review of a licence or certificate;

“authorisation” means, in the case of an agglomeration specified in column (1) of Schedule 2, a licence, and in all other cases, a certificate;

“authorised person” means a person who is appointed in writing by the Agency to be an authorised person for the purposes of Regulation 40;

“body of surface water” means a discrete and significant element of surface water such as a lake, reservoir, stream, river or canal, part of a stream, river or canal, a transitional water or a stretch of coastal water;

“body of groundwater” means a distinct volume of groundwater within a subsurface layer or layers of rock or other geological strata of sufficient porosity and

⁶Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment (OJ No. L 135, 30.5.1991)

⁷Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ No. L 206, 22.7.1992)

⁸Council Directive 2006/7/EC of 15 February 2006 concerning the management of bathing water quality and repealing Directive 76/160/EEC (OJ No. L 64, 4.3.2006)

permeability to allow either a significant flow of groundwater or the abstraction of significant quantities of groundwater;

“certificate” means a certificate authorising a discharge by or on behalf of a water services authority from an agglomeration not specified in column (1) of Schedule 2;

“combined approach”, in relation to a waste water works, means the control of discharges and emissions to waters whereby the emission limits for the discharge are established on the basis of the stricter of either or both, the limits and controls required under the Urban Waste Water Regulations, and the limits determined under statute or Directive for the purpose of achieving the environmental objectives established for surface waters, groundwater or protected areas for the water body into which the discharge is made;

“Dangerous Substances Directive” means Directive 2006/11/EC of the European Parliament and of the Council of 15 February 2006 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community⁹;

“Daughter Directives” are—

Council Directive 82/176/EEC on Limit Values and Quality Objectives for Mercury Discharges by the Chlor-Alkali Electrolysis Industry¹⁰;

Council Directive 83/513/EEC on Limit Values and Quality Objectives for Cadmium Discharges¹¹;

Council Directive 84/156/EEC on Limit Values and Quality Objectives for Mercury Discharges by Sectors other than the Chlor-Alkali Electrolysis Industry¹²;

Council Directive 84/491/EEC on Limit Values and Quality Objectives for Discharges of Hexachlorocyclohexane¹³;

Council Directive 86/280/EEC on Limit Values and Quality Objectives for Discharges of Certain Dangerous Substances included in List I of the Annex to Directive 76/464/EEC¹⁴;

“development” has the meaning assigned to it in the Act of 2000;

“discharge point” means the point from which a waste water discharge occurs;

“domestic waste water” means waste water from residential settlements and services that originates predominantly from human metabolism and from household activities;

⁹OJ No. L 64, 4.3.2006

¹⁰OJ No. L 81, 27.3.1982

¹¹OJ No. L 291, 24.10.1983

¹²OJ No. L 74, 17.3.1984

¹³OJ No. L 274, 17.10.1984

¹⁴OJ No. L 181, 4.7.1986

“ecological status” is an expression of the quality of the structure and functioning of aquatic ecosystems associated with surface waters, classified in accordance with the normative definitions of ecological status described in the Water Framework Directive and established by Regulations made by the Minister for the purpose of giving effect to the requirements of that Directive;

“environmental medium” includes the atmosphere, land, soil and waters;

“environmental pollution” means, in relation to waste water discharges, the direct or indirect introduction, as a result of human activity, of waste water discharges, substances (including any explosive, liquid or gas) or polluting matter (including any poisonous or noxious matter) into waters which may endanger human health or harm the aquatic environment, and in particular—

- (a) create a risk to waters, sediment, plants or animals,
- (b) deleteriously interfere with the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems including by—
 - (i) rendering those or any other waters poisonous or injurious to fish, shellfish, spawning grounds or the food of any fish, or
 - (ii) impairing the usefulness of the bed and soil of any waters as spawning grounds or impairing their capacity to produce the food of fish or shellfish,
- (c) impair or interfere with amenities and other legitimate uses of the water, or
- (d) result in the water failing to meet any environmental quality standards prescribed in regulations for the purpose of giving effect to the requirements of any Directive relating to the quality or use of water for the time being in force;

“European site” means—

- (a) a site (until the adoption, in respect of the site, of a decision by the European Commission under Article 21 of Council Directive 92/43/EEC¹⁵ for the purposes of the third paragraph of Article 4(2) of that Directive)—
 - (i) notified for the purposes of Regulation 4 of the Natural Habitats Regulations, subject to any amendments made to it by virtue of Regulation 5 of those Regulations,
 - (ii) details of which have been transmitted to the Commission in accordance with Regulation 5(4) of the Natural Habitats Regulations, or

- (iii) added by virtue of Regulation 6 of the Natural Habitats Regulations to the list transmitted to the Commission in accordance with Regulation 5(4) of those Regulations,
- (b) a site adopted by the European Commission as a site of Community importance for the purposes of Article 4(2) of Council Directive 92/43/EEC¹⁵ in accordance with the procedures laid down in Article 21 of that Directive,
- (c) a special area of conservation within the meaning of the Natural Habitats Regulations, or
- (d) an area classified pursuant to Article 4(1) or 4(2) of Council Directive 79/409/EEC¹⁶;

“good ecological potential” is the status of a body of surface water that is created by human activity or substantially changed in character as a result of physical alterations by human activity;

“good groundwater status” means the status achieved by a body of groundwater when both its quantitative status and its chemical status are at least ‘good’;

“good surface water chemical status” means the chemical status required to meet the environmental objectives for surface waters established by the Water Framework Directive and its Daughter Directives on priority substances, that is the chemical status achieved by a body of surface water in which concentrations of priority substances and certain other pollutants do not exceed the environmental quality standards established by Regulations made by the Minister for the purpose of giving effect to the requirements of those Directives;

“good surface water status” means the status achieved by a surface water body when both its ecological status and its chemical status is at least ‘good’;

“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;

“hazardous substances” means substances or groups of substances that are toxic, persistent and liable to bio-accumulate and other substances that give rise to an equivalent level of concern;

“industrial waste water” means any waste water that is discharged from premises used for carrying on any trade or industry or other non-domestic use and excludes run-off rain water;

“licence” means a licence authorising a discharge by or on behalf of a water services authority from an agglomeration specified in column (1) of Schedule 2;

¹⁵Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ No. L 206, 22.7.1992)

¹⁶Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ No. L 103, 25.4.1979)

“Minister” means the Minister for the Environment, Heritage and Local Government;

“Natural Habitats Regulations” means the European Communities (Natural Habitats) Regulations 1997 (S.I. No. 94 of 1997);

“pollutant” means any substance liable to cause pollution, including those listed in Schedule 1 and, for the purpose of this definition, ‘substance’ includes bacteria and other pathogens, where relevant and the expression “polluting matter” shall be construed accordingly;

“population equivalent” is a measurement of organic biodegradable load and a population equivalent of 1 (1 p.e.) means the organic biodegradable load having a five-day biochemical oxygen demand (BOD5) of 60g of oxygen per day; the load being calculated on the basis of the maximum average weekly load entering the waste water works during the year, excluding unusual situations such as those due to heavy rain;

“primary discharge point” means the discharge point with the largest volumetric flow;

“priority hazardous substances” means those substances or groups of substances forming a subset of priority substances identified in accordance with Article 16(3) and 16(6) of the Water Framework Directive for which measures have to be taken to cease or phase-out emissions and which have been established by Regulations made by the Minister for the purpose of giving effect to those requirements;

“priority substances” means those substances or groups of substances, identified in accordance with Article 16(2) of the Water Framework Directive, that have been prioritised for action by the setting of environmental quality standards at Community level and for which measures have been established by Regulations made by the Minister for the purpose of giving effect to those requirements;

“protected areas” means areas designated as requiring special protection under specific Community legislation for the protection of their surface water and groundwater or for the conservation of habitats and species of European sites directly dependant on water and listed in the register established by the Agency in accordance with Article 8 of the Water Policy Regulations;

“register”, except where used in the definition of ‘protected areas’, means the register established by the Agency under Regulation 36;

“river basin district” means an area as set out in the Second Schedule to the Water Policy Regulations;

“sensitive areas” has the meaning assigned to the term in the Urban Waste Water Regulations;

“storm water overflow” means a structure or device on a sewerage system designed and constructed for the purpose of relieving the system of excess flows

that arise as a result of rain water or melting snow in the sewered catchment, the excess flow being discharged to receiving waters;

“surface water” means inland waters (except groundwater), transitional waters and coastal waters;

“Urban Waste Water Regulations” means the Urban Waste Water Treatment Regulations 2001 (S.I. No. 254 of 2001);

“waste water” means domestic waste water or the mixture of domestic waste water with industrial waste water;

“waste water discharge” means the discharge of a pollutant to water from a waste water works and includes indirect discharge after percolation through the ground or subsoil and discharges from storm water overflows and emergency overflows;

“waste water works” means sewers and their accessories (or any part thereof) and all other associated structural devices, including waste water treatment plants, which are owned by, vested in, controlled or used by a water services authority for the collection, storage, treatment or discharge of waste water;

“water” includes surface water and groundwater;

“Water Framework Directive” means Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy¹⁷;

“Water Policy Regulations” means the European Communities (Water Policy) Regulations 2003 (S.I. No. 722 of 2003);

“water services authority” means a County Council or a City Council as defined in the Local Government Act 2001 (No. 37 of 2001) and, subject to such exceptions as may be prescribed, and where the context permits, any reference to a sanitary authority or local authority in any legislation, in so far as it relates to functions of that authority in relation to waste water works or waste water discharges, shall be regarded as a reference to a water services authority for the purpose of these Regulations.

Prosecution of Offences

4. (1) Summary proceedings for an offence under these Regulations may be brought and prosecuted by the Agency.

(2) A water services authority which commits an offence under these Regulations is liable—

(a) on summary conviction, to a fine not exceeding €5,000, or

(b) on conviction on indictment, to a fine not exceeding €500,000.

¹⁷OJ No. L 327, 22.12.2000

(3) Where an offence under these Regulations is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a person being a manager, director of service or other officer of the water services authority, or a person who was purporting to act in that capacity, that person is also guilty of an offence and liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(4) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, proceedings for an offence under these Regulations may be instituted at any time within 2 years from the date on which the offence has been committed.

PART II

DUTIES ON WATER SERVICES AUTHORITIES AND THE AGENCY

Duties on a water services authority

5. (1) A water services authority shall, within the 6 months preceding the date prescribed in column (2) of Schedule 2 opposite the specified population equivalent of the agglomeration served by a waste water works or at least 6 months before the date on which a waste water works becomes operational, whichever is later, make an application to the Agency for a licence authorising the waste water discharges from those works.

(2) With effect from 22 June 2010 or, if later, the date on which the waste water works becomes operational, a water services authority shall not cause or permit discharges from a waste water works serving an agglomeration not specified in column (1) of Schedule 2 unless the discharges concerned have been the subject of an application made to the Agency between 6 and 12 months before such date and in respect of which the Agency has granted a certificate.

(3) A water services authority which fails to comply with the requirements of paragraph (1) or (2) commits an offence.

Duties on the Agency

6. (1) The Agency shall be the competent authority for the purposes of authorising a waste water discharge.

(2) In considering an application by a water services authority, the Agency shall have regard to—

- (a) the requirements of Articles 3, 4 and 6 of the Dangerous Substances Directive,
- (b) the requirements of Articles 4, 7 and 9 of, and the Second, Fourth and Fifth Schedules to, the Urban Waste Water Regulations,
- (c) the environmental objectives established under Article 4(1)(a), 4(1)(b) and 4(1)(c) of the Water Framework Directive,
- (d) the requirement to protect bodies of water used for the abstraction of drinking water,

- (e) the requirement to prevent and control groundwater pollution,
- (f) the requirements under Article 16(1) and 16(8) of the Water Framework Directive to progressively reduce the pollution of surface waters by priority substances and to cease or phase out discharges of priority hazardous substances,
- (g) the requirement to prevent pollution of waters, and
- (h) the Directives referred to in Regulation 2(3),

and, in deciding on an application, the Agency shall set emission limits for pollutants likely to be present in the waste water concerned and the timeframe or timeframes within which these are to be achieved with the aim of achieving good surface water status (or good ecological potential and good surface water chemical status in the case of an artificial and heavily modified body of water), and good groundwater status by not later than 22 December 2015 for either or both the surface water body and groundwater body into which the waste water discharge is or will be made, including compliance with any standards and objectives established for associated protected areas by the dates specified for the individual protected areas and in any event by not later than 22 December 2015.

(3) The Agency shall not grant an authorisation for a waste water discharge which, in the opinion of the Agency, will—

- (a) cause a deterioration in the chemical status or ecological status (or ecological potential as the case may be) in the receiving body of surface water,
- (b) cause a deterioration in the chemical status in the receiving body of groundwater or which fails to include the measures necessary to prevent the input into groundwater of hazardous substances, except where the Agency has established, or caused to be established, that the input concerned is in a quantity and concentration so small as to obviate any present or future danger of deterioration in the quality of the receiving groundwater, or, in the case of pollutants which are not hazardous, which fails to include the necessary measures to limit inputs so as to ensure that such inputs do not cause deterioration or result in significant and sustained upward trends in the concentrations of pollutants in groundwater, or
- (c) exclude or compromise the achievement of the objectives established for protected species and natural habitats in the case of European sites where the maintenance or improvement of the status of water is an important factor in their protection or which is inconsistent with the achievement of environmental quality standards established under national Regulations in relation to designated bathing waters, designated shellfish waters, areas designated for the protection of freshwater fish and areas designated for the abstraction of water intended for human consumption.

(4) The Agency shall ensure that a waste water discharge is controlled according to the combined approach and, in setting emission limits for the discharge, the Agency shall ensure that the limits set down comply, within the prescribed timeframes, with the requirements of the Urban Waste Water Regulations; the Agency shall apply stricter limits where, in its view, these are necessary to achieve the environmental objectives established for the water body, and any associated protected area, into which the discharge is or will be made.

(5) In considering an application, where it appears to the Agency that the discharge concerned, or the proposed discharge, as the case may be, is likely to have a significant effect on a European site, either alone or in combination with other operations or activities, the Agency shall cause an assessment to be made of the implications for the site in view of that site's conservation objectives, and the Agency in deciding on the application shall have regard to the conclusions of the assessment.

Alternative objectives

7. (1) The Agency shall not be in breach of these Regulations where it authorises a waste water discharge allowing for the phased achievement of objectives for bodies of water beyond 22 December 2015, provided that no further deterioration occurs in the status of the affected body of water and that all the following conditions are met:

- (a) the Agency is satisfied that the necessary improvements in the status of the body of water cannot reasonably be achieved within the established deadlines for at least one of the following reasons—
 - (i) the scale of improvements required can only be achieved in phases exceeding the deadline for reasons of technical feasibility,
 - (ii) completing the improvements within the deadline would be disproportionately expensive, or
 - (iii) natural conditions do not allow timely improvement in the status of the body of water;
- (b) extension of the deadline, and the reasons for it, are specifically set out and explained in the river basin management plan required under Article 13 of the Water Policy Regulations;
- (c) extensions shall be limited to a maximum of two further updates of the river basin management plan except in cases where the natural conditions are such that the objectives cannot be achieved within this period;
- (d) a summary of the measures needed to bring the body of water progressively to the required status by the extended deadline, the reasons for any significant delay in making these measures operational, and the expected timetable for their implementation are set out in the river basin management plan and a review of the implementation of these

measures and a summary of any additional measures are included in updates of the river basin management plan.

(2) In deciding on an application, the Agency may aim to achieve less stringent environmental objectives for specific bodies of water when they are so affected by human activity, as determined in accordance with the analysis and review undertaken for the purposes of Article 7 of the Water Policy Regulations, or their natural condition is such that the achievement of the required objectives would be unfeasible or disproportionately expensive, and the Agency is satisfied that all the following conditions are met:

- (a) the environmental and socioeconomic needs served by such human activity cannot be achieved by other means, which are a significantly better environmental option not entailing disproportionate costs;
- (b) the authorisation granted by the Agency aims to achieve—
 - (i) in relation to surface waters, the highest ecological and chemical status possible, and
 - (ii) in relation to groundwater, the least possible changes to good groundwater status,

given impacts that could not reasonably have been avoided due to the nature of the human activity or pollution;
- (c) the authorisation granted by the Agency does not provide for any further deterioration in the status of the affected body of water; and
- (d) the establishment of less stringent environmental objectives, and the reasons for it, are specifically stated in the river basin management plan referred to in paragraph (1)(b) and those objectives are reviewed every six years.

(3) The Agency shall ensure that, if the provisions of paragraph (1) or (2) have been applied in deciding on an application, any authorisation granted—

- (a) does not exclude or compromise the achievement of the environmental objectives of the Water Framework Directive in other bodies of water within the same river basin district and is consistent with the implementation of other Community environmental legislation, and
- (b) guarantees the same level of protection as the existing European Community legislation.

Prior requirement in relation to waste water works common between authorities

8. (1) Where a waste water works is partly owned by, vested in, controlled or used by more than one water services authority, such water services authority—

- (a) as has been agreed by the relevant water services authorities, or, in default of such agreement,

(b) in whose functional area the primary discharge point is located, shall compile and submit to the Agency an inventory and accompanying maps or drawings identifying each element of the works and associating it with the relevant authority controlling such element and the drainage catchment area and such other information as may be requested by the Agency.

(2) The inventory referred to in paragraph (1) shall be submitted to the Agency no later than 2 months prior to the date specified in column (2) of Schedule 2 opposite the population equivalent of the agglomeration served by the waste water works concerned and shall indicate the relevant population equivalent served.

(3) On the basis of the information provided to it under paragraph (1), the Agency shall determine and notify the water services authority or authorities concerned of its determination as to the individual waste water works or combination of works or parts thereof that should appropriately comprise a single application to the Agency for the purposes of these Regulations to be made by such water services authority—

(a) as has been agreed by the relevant water services authorities, or

(b) in default of such agreement, in whose functional area the primary discharge point is located.

(4) In a notification issued under paragraph (3) the Agency may require the water services authority concerned to provide, by a specified date, information in relation to any agreements, contracts or undertakings entered into between two or more authorities in relation to the waste water works concerned.

PART III

NOTICES AND REVIEW BY AGENCY OF LICENCES

Notice of intention to apply to the Agency for a licence or for the review of a licence

9. An applicant, within the period of 2 weeks before the making of an application for the grant or review of a licence, shall—

(a) publish a notice, in accordance with Regulation 10, in a newspaper circulating in the area in which the discharge takes place or is to take place, of the intention to make the application and of the location of the discharge to which the application relates, and

(b) give notice of the intention to make the application by the erection or fixing of a site notice in accordance with Regulation 11.

Notices in newspapers

10. A notice published in a newspaper pursuant to Regulation 9 shall contain as a heading the words “APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR A WASTE WATER DISCHARGE LICENCE” or

“APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR THE REVIEW OF A WASTE WATER DISCHARGE LICENCE”, as the case may be, and shall contain the following information—

- (a) the name and address of the applicant,
- (b) the location or postal address (including, where appropriate, the name of the townland or townlands) and description of the waste water works, the location of discharges to which the application relates and the National Grid reference of the location of any associated waste water treatment plant,
- (c) where, under Regulation 17, the application is required to be accompanied by an environmental impact statement, confirmation that such a statement will be submitted to the Agency with the application,
- (d) a statement that a copy, in such a format as may be determined by the Agency, of—
 - (i) the application for a waste water discharge licence or for the review of a waste water discharge licence, as the case may be,
 - (ii) the environmental impact statement (where, under Regulation 17, the application is required to be accompanied by such statement), and
 - (iii) such further information relating to the application as may be furnished to the Agency in the course of the Agency’s consideration of the application,

shall, as soon as is practicable after receipt by the Agency, be available for inspection or purchase at the headquarters of the Agency and at the principal office of the relevant water services authority,
- (e) a statement that submissions in relation to the application may be made to the Agency at its headquarters, and
- (f) in the case of a review, specify the reference number given to the relevant licence in the register.

Site notices

11. A site notice erected or fixed pursuant to Regulation 9 shall be—

- (a) headed “APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR A WASTE WATER DISCHARGE LICENCE” or “APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR THE REVIEW OF A WASTE WATER DISCHARGE LICENCE”, as the case may be, and shall indicate the location of the primary discharge point and of any other discharges and any treatment plant associated with the discharge and

comply with the requirements specified in paragraphs (a) to (f) of Regulation 10,

- (b) inscribed or printed in dark indelible ink on a white background, affixed on rigid, durable material and secured against damage from bad weather and other causes,
- (c) securely erected or fixed in a conspicuous position adjacent to a public road at the point nearest to the waste water treatment plant where a plant exists, or else at a location nearest to the primary discharge point so as to be easily visible and legible by persons using the public road and shall not be obscured or concealed at any time, and
- (d) maintained in the position where erected or fixed for a period of at least 1 month after the making of the relevant application and shall be renewed or replaced if removed, defaced or otherwise rendered illegible within such period.

Further notice

12. Where—

- (a) a period of more than 2 weeks has elapsed between the publication of a notice in a newspaper in accordance with Regulation 9 and the making of the relevant application, or
- (b) it appears to the Agency that any notice published or given in pursuance of Regulation 9—
 - (i) if published in a newspaper, does not comply with the provisions of Regulation 10, or
 - (ii) if erected or fixed, does not comply with the provisions of Regulation 11, or
 - (iii) is, because of its content or for any other reason, misleading or inadequate for the purpose of informing the public,

the Agency shall require the applicant to publish, erect or fix such further notice in such manner, for such period and in such terms as it may specify and to submit to it such evidence as it may specify in relation to compliance with any such requirement.

Notice to the relevant authority

13. (1) An applicant, not being the water services authority in whose functional area the relevant waste water discharge to which the relevant application relates takes place or will take place, shall give written notice of the said application to any relevant water services authority.

(2) A notice required to be given to a water services authority under paragraph (1) shall contain the information specified in Regulation 10.

Review by the Agency of a licence

14. (1) The Agency shall review a licence—
 - (a) at a time not exceeding 6 years from the date on which the licence or revised licence was granted, or
 - (b) upon an application in that behalf being made by the licensee.
- (2) Notwithstanding paragraph (1), the Agency may review a licence—
 - (a) if any of the grounds specified in paragraph (6) arise,
 - (b) with the consent of the licensee, or
 - (c) at any time not less than 3 years from the date on which the licence or revised licence was granted.
- (3) Where the Agency proposes to review a licence under paragraph (1)(a) or (2), it shall give or publish, whether in a newspaper or otherwise, notice of such intention.
- (4) A notice given or published in accordance with paragraph (3) shall—
 - (a) indicate the reference number given to the licence in the register,
 - (b) state that a copy of documentation and information relating to the review, including any environmental impact statement required under Regulation 17, as may be furnished to the Agency, shall, as soon as is practicable after receipt by the Agency, be available for inspection or purchase at the headquarters of the Agency and at the principal office of the relevant water services authority, and
 - (c) state that submissions in relation to the review may be made to the Agency at its headquarters and indicate that the Agency shall not make a decision on the application for a period of 1 month from the date the notice is given or published.
- (5) Where the Agency proposes to review a licence under paragraph (1)(a) or (2), it shall give notice in writing to the licensee and, if different from the licensee, to the water services authority in whose functional area the discharge, the subject matter of the licence, takes place of its intention to conduct such a review.
- (6) The grounds referred to in paragraph (2)(a) are—
 - (a) there has been a material change in the content or extent of the discharge to which the licence relates or in the location in which the said discharge takes place,

- (b) there has been a material change, which could not reasonably have been foreseen when the licence was granted, in relation to the receiving waters or in the condition of the environment in the area in which the discharge to which the licence relates takes place,
 - (c) the Agency has reason to believe that the licensee is not in compliance with one or more conditions attaching to the licence,
 - (d) evidence, which was not available when the licence was granted and which would have materially affected the decision of the Agency to grant the licence subject to the conditions to which it was granted, has become available, or
 - (e) new standards or requirements relating to the discharge to which the licence relates or to the content or extent of any discharge concerned, or its effects on the environment, are prescribed under a provision of any enactment or a Community Act.
- (7) A notice given under paragraph (5)—
- (a) may require the licensee to furnish, by a date specified by the Agency, such—
 - (i) submissions, plans, documents and other information and particulars as the Agency considers necessary for the purpose of the proposed review, and
 - (ii) fee as is appropriate having regard to the provisions of Regulation 39, and
 - (b) shall indicate that submissions relating to the proposed review may be made in writing to the Agency at its headquarters within 1 month of the date of the giving of the notice, and the Agency shall not make a decision on the review before the expiry of the said period.
- (8) A failure by a licensee to provide, by the specified date, any response to a notice referred to in paragraph (5) is an offence.

PART IV

APPLICATION FOR A LICENCE OR FOR THE REVIEW OF A LICENCE

Making of an application to the Agency

15. An application for a licence or for the review of a licence shall be submitted to the headquarters of the Agency or such other office as the Agency may specify in writing to the applicant or licensee.

Details to be included in an application for a licence or for the review of a licence

16. (1) An application for a licence shall—

- (a) give the name, address, telefax number (if any) and telephone number of the applicant (and, if different, of the operator of any treatment plant concerned) and the address to which correspondence relating to the application should be sent and, if the operator is a body corporate, the address of its registered office or principal office,
- (b) give the name of the water services authority in whose functional area the relevant waste water discharge takes place or is to take place, if different from that of the applicant,
- (c) give the location or postal address (including where appropriate, the name of the townland or townlands) and description of the waste water works, the location of the discharge point or points to which the application relates and the National Grid reference of the location of any associated waste water treatment plant,
- (d) state the population equivalent of the agglomeration to which the application relates,
- (e) specify the content and extent of the waste water discharge, the level of treatment provided, if any, and the flow and type of discharge,
- (f) give details of the receiving water body, including its protected area status, if any, and details of any sensitive areas or protected areas, or both, in the vicinity of the discharge point or points or likely to be affected by the discharge concerned and, in relation to discharges to ground, provide details of groundwater protection schemes in place for the receiving water body and all associated hydrogeological and geological assessments related to the receiving water environment in the vicinity of the discharge,
- (g) identify monitoring and sampling points and indicate proposed arrangements for the monitoring of discharges and, if Regulation 17 does not apply, provide details of the likely environmental consequences of any such discharges,
- (h) in the case of an associated waste water treatment plant, specify the sampling data pertaining to the discharge based on the samples taken in the 12 months preceding the making of the application,
- (i) describe the existing or proposed measures, including emergency procedures, to prevent unintended waste water discharges and to minimise the impact on the environment of any such discharges,
- (j) give particulars of the location of the nearest downstream drinking water abstraction point or points to the discharge point or points associated with the waste water works,
- (k) give details and an assessment of the effects of any existing or proposed discharges on the environment, including any environmental medium other than that into which the discharges take place or are

to take place, and of proposed measures to prevent or eliminate, or, where that is not practicable, to limit or abate any pollution caused by such discharges,

- (l) give details of compliance with relevant monitoring requirements and treatment standards contained in any applicable Council Directives or Regulations,
 - (m) give details of any work necessary to meet relevant effluent discharge standards and a timeframe and schedule for such work, and
 - (n) give any other information as may be stipulated by the Agency.
- (2) An application by a licensee for the review of a licence shall—
- (a) state the grounds on which it is made,
 - (b) specify the reference number given to the relevant licence in the register, and
 - (c) include the information specified in paragraph (1) and such documents and particulars as are specified under paragraph (3) to the extent and in such manner as may be specified in writing by the Agency.
- (3) Without prejudice to paragraphs (1) and (2), an application shall be accompanied by—
- (a) a copy of the notice of intention to make the application given pursuant to Regulation 9,
 - (b) where appropriate, a copy of a notice given to a water services authority under Regulation 13,
 - (c) such other particulars, drawings, maps, reports and supporting documentation as are necessary to identify and describe, as appropriate,—
 - (i) the point or points, including storm water overflows, from which a discharge takes place or will take place, and
 - (ii) the point or points at which monitoring and sampling are undertaken or are to be undertaken, and
 - (d) such fee as is appropriate having regard to the provisions of Regulations 38 and 39.
- (4) The original application shall be accompanied by 2 copies of it and of all accompanying documents and particulars as required under paragraph (3).
- (5) For the purpose of paragraph (4), all or part of the 2 copies of the said application and associated documents and particulars may, with the agreement of the Agency, be submitted in an electronic or other format specified by the Agency.

Certain applications to be accompanied by an environmental impact statement

17. Where a treatment plant associated with the relevant waste water works is or has been subject to the European Communities (Environmental Impact Assessment) Regulations 1989 to 2001, in addition to compliance with the requirements of Regulation 16, an application in respect of the relevant discharge shall be accompanied by a copy of an environmental impact statement and approval in accordance with the Act of 2000 in respect of the said development and may be submitted in an electronic or other format specified by the Agency.

Procedure on receipt of an application

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

(a) stamp the application with the date of receipt, and

(b) examine whether the requirements of Regulations 15 and 16 have been complied with.

(2) Where the Agency considers that the requirements of Regulations 15 and 16 have been complied with in respect of an application, it shall send to the applicant an acknowledgment of receipt of the application.

(3) Where the Agency considers that any of the requirements of Regulation 15 or 16 have 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 requirements, by notice in writing—

(a) inform the applicant of such failure of compliance and that the application cannot be considered by the Agency, or

(b) require the applicant, within such period as may be specified by the Agency, 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 requirements.

(4) If the applicant fails to comply with a requirement of a notice issued under paragraph (3)(b), the Agency, as it considers appropriate having regard to the extent of the failure to comply with such notice, shall—

(a) notify the applicant that the application cannot be considered by the Agency, or

(b) notify the applicant of its intention to make a decision on the application in the absence of the information or particulars or the taking of the steps specified in the notice.

PART V

CONSIDERATION OF LICENCE APPLICATIONS BY AGENCY

Submissions to the Agency regarding applications

19. A person may make written submissions to the Agency at its headquarters in relation to—

- (a) an application,
- (b) such plans, maps, reports, documents and other information and particulars, including an environmental impact statement, as are submitted by the applicant or licensee in accordance with Regulations 14(7), 16, 17, 18(3)(b) and 20,

and the Agency shall not make a decision on the application before the expiry of a period of 1 month following—

- (i) the date of issue of a relevant acknowledgement in accordance with Regulation 18(2) or 20(5),
- (ii) the date of issue of a relevant notice in accordance with Regulation 18(4)(b), 20(2)(b) or 20(2)(c)(ii),
- (iii) the expiry of the period specified in a notice in accordance with Regulation 14(5) or 20(3) or as extended under Regulation 20(4),

whichever such date is the later, and the Agency shall have due regard to the content of any submissions received in its consideration of the application.

Further information

20. (1) Where the Agency receives an application for a licence or for the review of a licence, it may, by notice in writing, require the applicant within 1 month—

- (a) to furnish such further information or particulars relating to the application as it considers necessary to enable it to make a decision in respect of the application, or
- (b) to provide such evidence as it may reasonably require in order to verify any information or particulars furnished by the applicant in, or in relation to, the application.

(2) If the applicant fails to comply with a requirement of a notice issued under paragraph (1), the Agency, as it considers appropriate, having regard to the extent of the failure to comply with such notice, at the earliest possible date, shall—

- (a) notify the applicant that the application cannot be considered by the Agency,

- (b) notify the applicant of its intention to make a decision on the application in the absence of the information, particulars or evidence specified in the notice, or
 - (c) at the request of the applicant if received within 1 month of the date of issue of the notice under paragraph (1), allow an additional period, not exceeding 3 months, within which to comply, and if there continues to be a failure to comply with the notice, at the earliest possible date after the expiry of such additional period, the Agency shall—
 - (i) notify the applicant that the application cannot be considered by the Agency, or
 - (ii) notify the applicant of its intention to make a decision on the application in the absence of the information, particulars or evidence specified in the notice.
- (3) Where the Agency has given a notice under Regulation 14(5) to a licensee and Regulation 14(8) does not apply, it may, by further notice in writing, require the licensee, within a period of 1 month, to—
- (a) take such steps or submit such documents or particulars as the Agency considers necessary for compliance with the requirements of the notice given under Regulation 14(5),
 - (b) submit such further information or particulars as it considers necessary to enable it to carry out the review, and
 - (c) provide such evidence as it may reasonably require to verify any information or particulars furnished by the licensee in response to such notice or further notice.
- (4) Where there is a failure to comply with a notice under paragraph (3), the Agency may extend the period by 1 or more periods that do not in total exceed 2 months and shall, after the expiration of the period or periods concerned, proceed with its review in the absence of the information, particulars or evidence specified in the notice.
- (5) Where the Agency considers that the requirements of a notice given under paragraph (1) or (3) have been complied with, it shall send to the applicant or licensee an acknowledgement to that effect.

Notice to certain public authorities and bodies

21. (1) Where the Agency receives an application for a licence or for the review of a licence or has given a notice of intention to review a licence, it shall, by electronic means or otherwise, notify and invite submissions from—

- (a) the Minister,
- (b) the Minister for Agriculture, Fisheries and Food,

- (c) the Central Fisheries Board,
- (d) An Taisce — The National Trust for Ireland,
- (e) any water services authority in whose functional area the discharge takes place or is to take place, where the said authority is not the applicant,
- (f) the Health Service Executive,
- (g) the Health and Safety Authority,
- (h) Fáilte Ireland,
- (i) the Environment and Heritage Service of the Department of the Environment of Northern Ireland in relation to a discharge which, in the view of the Agency, has potential for significant impact on the objectives established for a water body, situated in whole or in part, in Northern Ireland,
- (j) the Shannon Free Airport Development Company Limited if the discharge takes place or is to take place within its functional area, and
- (k) such other public authority, person or body, if any, as the Agency considers necessary, having regard to the content and extent of the waste water discharge to which the application or review refers.

(2) A notice given in accordance with paragraph (1) shall as a minimum indicate—

- (a) the reference number given to the licence in the register where the notice relates to a review of a licence,
- (b) the name and address of the applicant or licensee, as the case may be, and
- (c) the agglomeration to which the application relates, the location or postal address (including, where appropriate, the name of the relevant townland or townlands), the National Grid reference and description of any associated waste water treatment plant, if applicable, and the location of the discharge point or points to which the application relates.

Matters in an environmental impact statement to which the Agency shall have regard

22. The Agency shall have regard to the matters mentioned in an environmental impact statement in respect of a development and in the decision of An Bord Pleanála on an application under section 175(3) of the Act of 2000 for approval of such development only in so far as they relate to the risk of environmental pollution of the receiving waters from the waste water discharge concerned.

Defrayal or contribution towards costs of investigations and enforcement

23. (1) The Agency may, by notice in writing, require an applicant or licensee to defray or contribute towards the cost of any investigations carried out or caused to be carried out by the Agency so as to enable it to properly decide on the application or review.

(2) The Agency may, by notice in writing, require a licensee to make periodic payments, not exceeding the costs incurred by the Agency, for the purposes of defraying or contributing towards the costs incurred by it in monitoring, carrying out inspections, or otherwise ensuring compliance with the conditions of a licence granted by it under these Regulations.

(3) An applicant or licensee, as appropriate, shall comply with any requirement of a notice under paragraph (1) or (2) within such period (being a period of not less than 1 month) as may be specified in the said notice.

(4) The amount of any defrayal, contribution or payment required under paragraph (1) or (2) may be recovered by the Agency as a simple contract debt in any court of competent jurisdiction.

PART VI

APPLICATION FOR A CERTIFICATE OR FOR THE REVIEW OF A CERTIFICATE

Application for a certificate or for the review of a certificate

24. An application for a certificate or for the review of a certificate shall be submitted to the headquarters of the Agency or such other office as the Agency may specify in writing to the applicant and shall—

- (a) give the name, address, telefax number (if any) and telephone number of the applicant and the address to which correspondence relating to the application should be sent and, if the operator of the waste water works is a body corporate, the address of its registered office or principal office,
- (b) give the name of the water services authority in whose functional area the relevant waste water discharge takes place or is to take place, if different from that of the applicant,
- (c) give the location or postal address (including where appropriate, the name of the townland or townlands) and the National Grid reference of the location of the discharge point or points to which the application relates,
- (d) state the population equivalent of the agglomeration to which the application relates,
- (e) in the case of an application for the review of a certificate, specify the reference number given to the relevant certificate in the register,

- (f) specify the content and extent of the waste water discharge, the level of treatment provided and the flow and type of discharge,
- (g) give details of the receiving water body, its protected area status, if any, and details of any sensitive areas or protected areas, or both, in the vicinity of the discharge point or points or likely to be affected by the discharge concerned,
- (h) identify monitoring and sampling points and indicate proposed arrangements for the monitoring of discharges and of the likely environmental consequences of any such discharges,
- (i) in the case of an existing discharge, specify the sampling data pertaining to the discharge based on the samples taken in the 12 months preceding the making of the application,
- (j) describe the existing or proposed measures, including emergency procedures, to prevent unauthorised or unexpected waste water discharges and to minimise the impact on the environment of any such discharges,
- (k) give particulars of the location of the nearest downstream drinking water abstraction point or points to the discharge point or points associated with the waste water works,
- (l) give details of any designation under any Council Directive or Regulations that apply in relation to the receiving waters,
- (m) give details of compliance with any applicable monitoring requirements and treatment standards,
- (n) give details of any work necessary to meet relevant effluent discharge standards and a timeframe and schedule for such work,
- (o) give any other information as may be stipulated by the Agency, and
- (p) be accompanied by such fee as is appropriate having regard to the provisions of Regulations 38 and 39.

Procedure on receipt of an application

25. On receipt of an application, or further documentation relating to an application, the Agency shall—

- (a) stamp the application with the date of receipt,
- (b) assign a reference number to the application, and
- (c) issue to the applicant—
 - (i) a written acknowledgment of its receipt if the Agency is satisfied that the requirements of Regulation 24 have been complied with, or

- (ii) notice in writing of the remaining requirements that must be satisfied within such period as is specified by the Agency.

Review of a certificate

26. (1) The Agency may review a certificate granted by it at any time and shall in any event review a certificate at least once every 8 years.

(2) A holder of a certificate may, at any time, make an application to the Agency, in accordance with Regulation 24, for a review of the certificate.

(3) Where the Agency proposes to review a certificate under paragraph (1), it shall give notice in writing to the holder of the certificate and the notice shall indicate that—

- (a) the Agency intends to review the certificate,
- (b) the holder of the certificate is required, within 30 working days of the date of issue of the notice, to make an application to the Agency in accordance with Regulation 24 for a review of the said certificate and that the Agency shall not decide to amend conditions attaching to the said certificate or refuse to grant a revised certificate before the expiry of the said period, and
- (c) if the holder of a certificate does not make an application in accordance with paragraph (b), the Agency shall make and issue a decision in relation to the review in accordance with Regulation 30(1).

Defrayal or contribution towards cost of certificate functions of the Agency

27. (1) The Agency may, by notice in writing, require an applicant or certificate holder to defray or contribute towards such costs as may reasonably be incurred by the Agency in granting or reviewing a certificate or in inspecting, monitoring, auditing, enforcing or otherwise performing any functions in relation to the discharge concerned.

(2) An applicant or certificate holder, as appropriate, shall comply with any requirement of a notice under paragraph (1) within such period (being a period of not less than 1 month) as may be specified in the said notice.

(3) The amount of any defrayal or contribution required under paragraph (1) may be recovered by the Agency as a simple contract debt in any court of competent jurisdiction.

PART VII

GRANTING OF LICENCES AND CERTIFICATES

Deciding on an application for a licence or for a revised licence

28. (1) The Agency shall, not earlier than 1 month and not later than 4 months from—

- (a) the date of issue of an acknowledgement in accordance with Regulation 18(2) or 20(5),
- (b) the date of issue of a notice in accordance with Regulation 18(4)(b), 20(2)(b) or 20(2)(c)(ii),
- (c) the expiry of the period specified in a notice in accordance with Regulation 14(5) (except where Regulation 14(8) applies) or 20(3) or as extended under Regulation 20(4),

whichever is the later, make a decision on the application or review and notify the applicant or licensee concerned of that decision.

(2) If, before the expiration of the latter period specified in paragraph (1), the applicant or licensee gives to the Agency consent in writing to an extension by it of that period, the Agency may so extend the period, but such extension may not exceed 2 months.

(3) Before making its decision under paragraph (1), the Agency may require an applicant to provide confirmation that all programmes of works that would be required in order to comply with any condition that the Agency proposes to attach to any licence that it may grant have been given the appropriate prioritisation for funding by the water services authority in its current programme of water services works.

(4) Where the Agency grants a revised licence or Regulation 14(8) applies, the previous licence or revised licence, as the case may be, applying to the discharge from the waste water works concerned, shall stand revoked.

Conditions attaching to licences, including those necessary to give effect to certain provisions of Community Acts

29. (1) The Agency shall attach to any licence or revised licence that may be granted by it such conditions as are, in the opinion of the Agency, necessary to give effect to the requirements of existing environmental legislation in the field of water policy.

- (2) In particular, conditions attached to a licence or revised licence shall—
 - (a) specify the emission limits and, where appropriate, controls that must not be exceeded in the case of pollutants discharged,
 - (b) contribute to the attainment of any environmental quality objectives for the time being in force for the receiving waters to which the discharge is made and not be inconsistent with any other environmental quality standards prescribed in regulations for the purpose of giving effect to the requirements of the Dangerous Substances Directive or the Water Framework Directive and Daughter Directives for the time being in force,
 - (c) be such as not to allow any deterioration to occur in the status of the waters receiving the discharge concerned,

- (d) be consistent with the requirements imposed by the Directives referred to in Regulation 2(3) and, in particular, ensure that the discharge concerned will not adversely affect the integrity of a European site,
- (e) require, where necessary, the undertaking of specified works within specified periods, and
- (f) stipulate the monitoring requirements applying to the discharge or each of the discharges that must be met by the licensee in order to verify, to the satisfaction of the Agency, compliance with the terms of the licence concerned.

(3) A licensee who fails to comply with any condition attaching to a licence or revised licence granted by the Agency commits an offence.

(4) The Agency shall take all such steps as are open to it to ensure compliance with all conditions attaching to a licence or revised licence granted by it, including initiating prosecution proceedings for the offence of contravening paragraph (3).

Deciding on an application for a certificate or for a revised certificate

30. (1) The Agency shall, within 4 months of an acknowledgment being issued by it in accordance with Regulation 25(c)(i) or of a notice being issued by it under Regulation 26(3), or of the expiry of the period specified in a notice under Regulation 25(c)(ii), whichever is later, grant a certificate or revised certificate or refuse to grant a certificate or revised certificate in relation to the causing or permitting of a discharge from an agglomeration not specified in column (1) of Schedule 2.

(2) If, before the expiration of the period specified in paragraph (1), the applicant or certificate holder gives to the Agency consent in writing to an extension by it of that period, the Agency may so extend the period, but such extension may not exceed 2 months.

(3) Before making its decision under paragraph (1), the Agency may require an applicant to provide confirmation that all programmes of works that would be required in order to comply with any condition that the Agency proposes to attach to any certificate that it may grant have been given the appropriate prioritisation for funding by the water services authority in its current programme of water services works.

Conditions attaching to certificates, including those necessary to give effect to certain provisions of Community Acts

31. (1) The Agency shall attach to any certificate or revised certificate that may be granted by it such conditions as are, in the opinion of the Agency, necessary to give effect to the requirements of existing environmental legislation in the field of water policy.

(2) In particular, conditions attached to a certificate or revised certificate shall—

- (a) specify either or both the emission limits and controls that must not be exceeded in the case of pollutants discharged,
- (b) have regard to any environmental quality objectives for the time being in force for the receiving waters to which the discharge is made and any other environmental quality standards prescribed in regulations for the purpose of giving effect to the requirements of the Dangerous Substances Directive or the Water Framework Directive and Daughter Directives for the time being in force,
- (c) be such as not to allow any deterioration to occur in the status of the waters receiving the discharge concerned,
- (d) be consistent with the requirements imposed by the Directives referred to in Regulation 2(3) and, in particular, ensure that the discharge concerned will not adversely affect the integrity of a European site,
- (e) require, where necessary, the undertaking of specified works within specified periods, and
- (f) stipulate the monitoring requirements applying to the discharge or each of the discharges that must be met by the certificate holder in order to verify, to the satisfaction of the Agency, compliance with the terms of the certificate concerned.

(3) A certificate holder who does not comply with any condition attaching to a certificate or revised certificate granted by the Agency commits an offence.

(4) The Agency shall take all such steps as are open to it to ensure compliance with all conditions attaching to a certificate or revised certificate granted by it, including initiating prosecution proceedings for the offence of contravening paragraph (3).

Surrender or revocation of a certificate

32. (1) A certificate—

- (a) shall stand revoked where, in accordance with Regulation 30(1), the Agency grants a revised certificate, and
- (b) may be surrendered by the holder at any time, subject to the agreement of, and by written notice to, the Agency.

(2) The Agency shall not agree to the surrender of a certificate unless it is satisfied that the discharge from the discharge point or points concerned has been terminated.

(3) Where there is an increase in the population equivalent of an agglomeration to which a certificate relates such that the agglomeration falls to be specified in column (1) of Schedule 2, the holder shall make an application for a

licence under Regulation 15 and the certificate shall, on the granting by the Agency of the relevant licence, stand revoked.

Clerical or technical amendments to licences and certificates

33. (1) The Agency may amend a licence or certificate or revised licence or revised certificate for the purposes of—

- (a) correcting any clerical error therein,
- (b) facilitating the doing of any thing pursuant to a condition attached to the licence or certificate where the doing of that thing may reasonably be regarded as having been contemplated by the terms of the condition or the terms of the licence or certificate taken as a whole but which was not expressly provided for in the condition, or
- (c) otherwise facilitating the operation of the licence or certificate where the making of the amendment does not result in the relevant environmental requirements ceasing to be satisfied.

(2) The Agency shall, where appropriate, consult with the licensee or certificate holder before amending a licence or certificate or revised licence or revised certificate under paragraph (1).

Questioning of decision of Agency

34. A water services authority shall not by any application for judicial review or in any other legal proceedings whatsoever question the validity of a decision of the Agency to—

- (a) attach a specified condition to an authorisation issued by it,
- (b) not consider an application in accordance with Regulation 18(3)(a), 18(4)(a), 20(2)(a) or 20(2)(c)(i), or
- (c) refuse to grant a certificate,

unless the proceedings are instituted within the period of 28 days beginning on the date on which the Agency issues to the authority—

- (i) the authorisation referred to in subparagraph (a), or
- (ii) notification of the decision referred to in subparagraph (b) or (c), as the case may be.

False or misleading information or failure to provide information

35. (1) A person shall not furnish information or documentation in support of an application or in response to any notice issued by the Agency for the purposes of these Regulations which he or she knows to be false or misleading in a material respect and any person who does so commits an offence.

(2) A person who fails to comply with a notice issued by the Agency or to provide information that the Agency requires under these Regulations commits an offence.

Register

36. (1) The Agency shall establish, as soon as may be after the coming into operation of these Regulations, and maintain, in whatever format the Agency considers appropriate, a register of all licences and certificates and revised licences and revised certificates granted by it.

(2) The Agency shall assign a reference number to each licence and certificate and revised licence and revised certificate granted by it and that number shall be recorded on the register together with such other details as may from time to time be specified by the Agency.

(3) The Agency shall make any of the information contained in the register available on request and may charge a reasonable fee for this purpose.

Injunctive relief

37. (1) Where, on application by the Agency to the High Court, the Court is satisfied that a water services authority has failed to comply with a condition of an authorisation, the Court may by order—

(a) direct the authority to comply with the condition, and

(b) make such other provision, including provision in relation to the payment of costs, as the Court considers appropriate.

(2) An application for an order under this Regulation shall be by motion, and the High Court, when considering the matter, may make such interim or interlocutory order as it considers appropriate.

(3) An application for an order under this Regulation may be made whether or not there has been a prosecution for an offence under these Regulations in relation to the discharge concerned, and shall not prejudice the initiation of a prosecution for an offence under these Regulations in relation to the discharge concerned.

PART VIII

FEES AND MISCELLANEOUS

Fee for application for a licence or certificate

38. (1) A fee shall be paid to the Agency by an applicant in respect of an application for a licence or certificate.

(2) Subject to paragraph (3), the fee payable under paragraph (1) shall be the amount indicated in column (2) of Schedule 3 opposite the relevant class of waste water discharges in column (1) of the said Schedule.

(3) The Agency may, at its discretion, reduce, by whatever amount it considers appropriate, a fee payable under paragraph (1) in the case of multiple applications from a water services authority within a 3-month period.

(4) The fee required under paragraph (1) may be recovered by the Agency as a simple contract debt in any court of competent jurisdiction.

Fee for application for review of a licence or of a certificate

39. (1) A fee shall be paid to the Agency in respect of—

- (a) an application for a review of a licence or of a certificate, or
- (b) a review of a licence under Regulation 14(1)(a) or 14(2).

(2) Subject to paragraph (3), the fee payable under paragraph (1) shall be the amount indicated in column (3) of Schedule 3 opposite the relevant class of waste water discharges in column (1) of the said Schedule.

(3) The Agency may, at its discretion, reduce, by whatever amount it considers appropriate, a fee payable under paragraph (1) in the case of multiple reviews of licences or applications from a water services authority within a 3-month period.

(4) The fee required under paragraph (1) may be recovered by the Agency as a simple contract debt in any court of competent jurisdiction.

Powers of authorised persons

40. (1) For the purposes of the Agency's functions under Regulations 14(2), 26(1), 28, 29(4), 30 and 31(4), an authorised person may at all reasonable times enter any waste water works, or other premises that the Agency reasonably considers may contain information pertaining to a discharge from those works, and may bring onto those premises such other persons or equipment and may carry out such activities specified in paragraph (2) as that authorised person may consider necessary.

(2) The activities referred to in paragraph (1) are—

- (a) the carrying out of inspections,
- (b) the seizure and retention of anything believed to be evidence,
- (c) requiring the production of, inspection and taking copies of, records and documents or extracts therefrom, including records held in electronic form, or taking away, if considered necessary for the purposes of inspection or examination, any records or documents,
- (d) the taking of photographs and making of tape, electrical, video or other recordings,
- (e) the conducting of tests and taking of samples, and
- (f) requiring information from any person employed on the premises.

(3) When exercising the powers conferred under paragraph (1), a person shall, if so required, provide evidence of appointment by the Agency as an authorised person.

(4) A person who—

- (a) refuses to allow an authorised person on to a premises, or refuses to allow an authorised person to bring any other person or equipment with him or her on to a premises or to carry out any activity in the exercise of his or her powers under this Regulation,
- (b) obstructs or impedes an authorised person in the exercise of his or her powers or functions,
- (c) gives to an authorised person information which, to the knowledge of the person giving it, is false or misleading in a material respect, or
- (d) fails or refuses to comply with a direction or requirement of an authorised person,

commits an offence.

Limitation of Act of 2000

41. (1) Subject to Regulation 42(2), and notwithstanding sections 34, 37, 37E, 175 and 226 of the Act of 2000, or any other provision of that Act, where, under these Regulations, an authorisation has been granted in respect of a waste water discharge from a waste water works—

- (a) a planning authority, or An Bord Pleanála, where it decides to grant a permission under section 34, 37 or 37E on appeal or otherwise, as the case may be, of the said Act, or
- (b) An Bord Pleanála, where it decides to grant an approval under section 175 or 226 of the said Act,

in respect of a proposed development that involves a waste water discharge from a waste water works, shall not subject the permission or approval, as the case may be, to conditions which are for the purposes of controlling the waste water discharge.

(2) Where a permission or approval under the Act of 2000 has been subjected to conditions, other than conditions as referred to in paragraph (3)(b), that are for the purposes of controlling discharges from a development as described in paragraph (1), those conditions shall cease to have effect upon the granting of an authorisation under these Regulations in respect of the waste water discharges concerned.

(3) In determining an application or appeal as referred to in paragraph (1), a planning authority or An Bord Pleanála, where it considers that, notwithstanding the authorisation of the waste water discharge under these Regulations, the

discharge in question would cause or exacerbate breaches of the combined approach or otherwise cause serious water pollution, may—

- (a) decide to refuse permission or approval for the development, or
- (b) limit the scale of development permitted or approved, by way of condition or otherwise, in order to prevent breaches of the combined approach or to prevent serious water pollution.

Transitional provision

42. (1) Where, in the period between the coming into operation of these Regulations and the granting by the Agency of an authorisation in respect of a waste water discharge from a waste water works—

- (a) a planning authority is considering an application for permission under section 34 of the Act of 2000, or
- (b) An Bord Pleanála is considering—
 - (i) an appeal under section 37 of the Act of 2000 against a decision arising from such application, or
 - (ii) an application for permission under section 37E, or approval under section 175 or 226 of the said Act,

for a proposed development that involves a waste water discharge from a waste water works, the planning authority or the Board, as the case may be, shall consider whether the discharge of waste water from the proposed development, in conjunction with existing discharges to the receiving waters, would cause or exacerbate breaches of the combined approach.

(2) Where, following consideration under paragraph (1), the planning authority or the Board, as the case may be, forms the opinion that breaches of the combined approach would be caused or exacerbated, a permission or approval referred to in paragraph (1), which the authority or Board decides to grant, shall include conditions to prevent—

- (a) breaches of water quality standards established under national Regulations in relation to designated bathing waters, designated shellfish waters, areas designated for the protection of freshwater fish and areas designated for the abstraction of water intended for human consumption,
- (b) a deterioration in the chemical or ecological status (or ecological potential as the case may be) in the receiving water body,
- (c) a deterioration in the chemical status of the receiving body of groundwater,
- (d) the input into groundwater of hazardous substances, or

- (e) the exclusion or compromising of the achievement of the objectives established for protected species and natural habitats in the case of European sites where the maintenance or improvement of the status of water is an important factor in their protection.

Consideration of proposals by planning authorities and An Bord Pleanála

43. (1) Where a planning authority or An Bord Pleanála is considering an application for permission, an appeal or an application for approval under section 34, 37, 37E, 175 or 226 of the Act of 2000 for development being development which involves the disposal of waste water to a waste water works, or is considering such a development under section 179 of the Act of 2000, the planning authority or the Board, as the case may be, shall consider whether the discharge of waste water from the proposed development, in conjunction with existing discharges to the receiving waters, would cause non-compliance with the combined approach or, in situations where there is existing non-compliance, would result in a significant breach of the combined approach.

(2) Where, following consideration under paragraph (1), the planning authority or the Board forms the opinion that the proposed discharge would result in non-compliance with, or a significant breach of, the combined approach, the planning authority or the Board shall—

- (a) refuse permission or approval for the development,
- (b) impose conditions in any grant of permission or approval to ensure that the discharge does not result in non-compliance with, or in a significant breach of, the combined approach, as the case may be, or
- (c) decide not to proceed with the development.

Consultation by planning authority and An Bord Pleanála

44. (1) Where Regulation 41, 42 or 43 applies, before making a decision in respect of a proposed development, a planning authority or An Bord Pleanála may, where the authority or the Board consider that the proposed development is likely to have a significant impact on waste water discharges, request the Agency, within such period (being not less than 3 weeks from the date of the request) as may be specified by the planning authority or the Board, to make observations in relation to their assessment of the likely impact of the proposed development on waste water discharges and the Agency shall comply with any such request.

(2) When making its decision, the planning authority or the Board, as the case may be, shall have regard to the observations received from the Agency.

(3) The making of observations by the Agency under this Regulation shall not prejudice any other function of the Agency under these Regulations.

Discharges requiring licensing under Foreshore Acts

45. (1) Where the Agency has decided to grant an authorisation under Part VII and a foreshore licence has been granted under the Foreshore Act 1933 (No. 12 of 1933) in relation to the same discharge, any conditions attached to

that foreshore licence shall, in so far as they are for the purpose of preventing environmental pollution, cease to have effect.

(2) The grant of a licence under the Foreshore Act 1933 in relation to any activity shall not prejudice, affect or restrict in any way the application of any provision of these Regulations to such an activity.

Funding of capital works

46. The Minister shall, with the consent of the Minister for Finance, pay out of monies provided by the Oireachtas, in a timely manner, such grants which he or she considers to be reasonable and appropriate to public funding for the purposes of capital expenditure required to be incurred by the water services authority in complying with a condition of a licence or certificate or revised licence or revised certificate granted by the Agency.

Revocation

47. With effect from 22 December 2013, the Protection of Groundwater Regulations 1999 (S.I. No. 41 of 1999) are revoked.

SCHEDULE 1

INDICATIVE LIST OF MAIN POLLUTANTS

	Main pollutants
1	Organohalogen compounds and substances which may form such compounds in the aquatic environment
2	Organophosphorus compounds
3	Organotin compounds
4	Substances and preparations, or the breakdown products of such, which have been proved to possess carcinogenic or mutagenic properties or properties which may affect steroidogenic, thyroid, reproduction or other endocrine-related functions in or via the aquatic environment
5	Persistent hydrocarbons and persistent and bioaccumulable organic toxic substances
6	Cyanides
7	Metals and their compounds
8	Arsenic and its compounds
9	Biocides and plant protection products
10	Materials in suspension
11	Substances which contribute to eutrophication (in particular, nitrates and phosphates)
12	Substances which have an unfavourable influence on the oxygen balance (and can be measured using parameters such as BOD, COD, etc.).

SCHEDULE 2

PRESCRIBED DATES FOR THE PURPOSE OF REGULATION 5(1)

Population Equivalent of Agglomeration (1)	Prescribed Date (2)
Discharges from agglomerations with a population equivalent of more than 10,000	14 December 2007
Discharges from agglomerations with a population equivalent of 2,001 to 10,000	22 September 2008
Discharges from agglomerations with a population equivalent of 1,001 to 2,000	28 February 2009
Discharges from agglomerations with a population equivalent of 500 to 1,000	22 June 2009

SCHEDULE 3

FEES PAYABLE TO THE AGENCY IN RESPECT OF AN APPLICATION FOR A LICENCE OR A CERTIFICATE OR FOR THE REVIEW OF A LICENCE OR OF A CERTIFICATE

Class of waste water discharges (1)	Amount of fee to accompany an application (2)	Amount of fee to accompany an application for a review (3)
Discharges from agglomerations with a population equivalent of more than 10,000	€30,000	€22,500
Discharges from agglomerations with a population equivalent of 2,001 to 10,000	€25,000	€20,000
Discharges from agglomerations with a population equivalent of 1,001 to 2,000	€15,000	€12,000
Discharges from agglomerations with a population equivalent of 500 to 1,000	€10,000	€6,000
Discharges from agglomerations with a population equivalent of less than 500	€3,000	€2,000



GIVEN under my Official Seal,
27 September 2007

JOHN GORMLEY
Minister for the Environment, Heritage and Local Government

EXPLANATORY NOTE

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

These Regulations provide for the commencement and operation of authorisation by the Environmental Protection Agency of local authority waste water discharges. The Regulations require discharges from agglomerations with population equivalents greater than 500 to be licensed and set out procedures for the making of licence applications, reviews of licences and the making of submissions. Discharges from agglomerations with a population equivalent below 500 are required to be certified by the EPA.

The Regulations also prescribe the dates by which specified classes of waste water discharges must have been the subject of a licence application or certification.

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Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2
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