STATUTORY RULES OF NORTHERN IRELAND

1998 No. 401

ENVIRONMENTAL PROTECTION

The Groundwater Regulations (Northern Ireland) 1998

Made - - - -	*18th November 1998*
Coming into operation–	
regulations 1, 2 and 22	*1st January 1999*
all other provisions	*1st April 1999*

The Department of the Environment, being a department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures relating to the prevention, reduction and elimination of pollution of water, in exercise of the powers conferred on it by that section and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Groundwater Regulations (Northern Ireland) 1998 and shall come into operation–

(a) in the case of this regulation and regulations 2 and 22, on 1st January 1999;

(b) in the case of all other provisions, on 1st April 1999.

Interpretation

2.—(1) In these Regulations–

"the Act" means the Water Act (Northern Ireland) 1972(**3**);

"the Appeals Commission" means the Water Appeals Commission for Northern Ireland;

"authorisation" means–

(a) an authorisation under regulation 17 or 18;

(b) a consent under section 8 of the Act; and

(**1**) S.I.1989/2393
(**2**) 1972 c. 68
(**3**) 1972 c. 5 (N.I.)

(c) an authorisation under Article 6 of the Industrial Pollution Control (Northern Ireland) Order 1997(**4**) in relation to a process designated for integrated central control under Article 3 of that Order;

"the Department" means the Department of the Environment;

"direct discharge" means the introduction into groundwater of any substance in list I or II without percolation through the ground or subsoil;

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

"the Groundwater Directive" means Council Directive 80/68/EEC(**5**);

"indirect discharge" means the introduction into groundwater of any substance in list I or II after percolation through the ground or subsoil;

"pollution" means the discharge by man, directly or indirectly, of substances or energy into groundwater, the results of which are such to endanger human health or water supplies, harm living resources and the aquatic ecosystem or interfere with other legitimate uses of water;

"road drain" means a drain which the Department is entitled to keep open by virtue of Article 45 of the Roads (Northern Ireland) Order 1993(**6**);

"substance in list I" and "substance in list II" shall have the meanings given by paragraphs 1 and 2 of the Schedule and paragraph 3 of the Schedule shall have effect.

(2) For the purposes of these Regulations any reference to water contained in underground strata in the Act includes groundwater.

(3) Expressions used in these Regulations which are also used in the Groundwater Directive have the same meaning as in the Directive.

(4) The Interpretation Act (Northern Ireland) 1954(**7**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Exclusions from these Regulations

3. Nothing in these Regulations shall apply in relation to—

(a) any discharge of matter containing radioactive substances;

(b) any discharge of domestic effluent from an isolated dwelling which is not connected to a sewerage system and which is situated outside any area protected for the abstraction of water for human consumption;

(c) any discharge found by the Department to contain substances in list I or II in a quantity and concentration to be so small as to obviate any present or future danger of deterioration in the quality of the receiving groundwater.

Discharge of functions

4. The Department shall for the purposes of implementing the Groundwater Directive discharge its functions under these Regulations, the Act, and the Industrial Pollution Control (Northern Ireland) Order 1997 in accordance with the following provisions of these Regulations.

(**4**) S.I. 1997/2777 (N.I. 18)
(**5**) O.J. No. L20, 26.1.80, p. 43
(**6**) S.I. 1993/3160 (N.I. 15)
(**7**) 1954 c. 33 (N.I.)

Measures to prevent the introduction into groundwater of list I substances

5.—(1) An authorisation shall not be granted if it would permit the direct discharge of any substance in list I.

(2) An authorisation shall not be granted in relation to–

(a) the disposal, or tipping for the purpose of disposal, of any substance in list I which might lead to an indirect discharge of that substance; or

(b) any other activity on or in the ground which might lead to an indirect discharge of any substance in list I;

unless that activity has been subjected to prior investigation.

(3) In the light of any such investigation–

(a) an authorisation shall not be granted if it would permit the indirect discharge of any substance in list I; and

(b) any authorisation granted must include conditions which require that all necessary technical precautions are observed to prevent an indirect discharge of any substance in list I.

(4) The Department shall not grant its consent under Article 46(4) of the Roads (Northern Ireland) Order 1993 for the discharge of any substance in list I into a road drain if the discharge results in that substance entering into groundwater.

(5) The powers conferred by regulation 18 shall be exercised if it is necessary to do so in order to prevent an indirect discharge of any substance in list I due to activities mentioned in paragraph (2)(*b*).

(6) However, a discharge of any substance in list I into groundwater may be authorised after prior investigation if—

(a) the investigation reveals that the groundwater is permanently unsuitable for other uses (especially domestic or agricultural uses), presence of that substance does not impede exploitation of ground resources and conditions are imposed which require that all technical precautions are observed to prevent that substance from reaching other aquatic systems or harming other ecosystems; or

(b) the discharge is due to the re-injection into the same aquifer of water use for geothermal purposes, water pumped out of mines and quarries or water pumped out for civil engineering works.

Measures to limit the introduction into groundwater of list II substances to avoid pollution

6.—(1) An authorisation shall not be granted in relation to–

(a) any direct discharge of any substance in list II;

(b) any disposal or tipping for the purpose of disposal of any substance in list II which might lead to an indirect discharge of that substance;

(c) any other activity on or in the ground which might lead to an indirect discharge of any substance in list II,

unless that activity has been subjected to prior investigation.

(2) An authorisation may only be granted if, in the light of any such investigation, it includes conditions which require that all necessary technical precautions are observed to prevent groundwater pollution by any substance in list II.

(3) The Department shall not grant its consent under Article 46(4) of the Roads (Northern Ireland) Order 1993 for the discharge of any substance in list II into a road drain if the discharge results in that substance polluting groundwater.

(4) The powers conferred by regulation 18 shall be exercised if it is necessary to do so for the purposes of avoiding pollution of groundwater by substances in list II due to activities mentioned in paragraph (1)(*c*).

Artificial recharges for the purposes of groundwater management

7. Artificial recharges may be authorised on a case by case basis for the purposes of groundwater management notwithstanding regulations 5 and 6 but such authorisation shall only be granted if there is no risk of polluting groundwater.

Examination required in prior investigation

8. Any prior investigation required by regulation 5 or 6 shall include examination of–

(a) the hydrogeological conditions of the area concerned;

(b) the possible purifying powers of the soil and subsoil; and

(c) the risk of pollution and alteration of the quality of the groundwater from the discharge,

and shall establish whether the discharge of substances into groundwater is a satisfactory solution from the point of view of the environment.

Surveillance of groundwater

9. An authorisation which is subject to any of the provisions of regulations 5, 6 or 7 may only be granted if the Department has checked that the groundwater (and, in particular, its quality) will undergo the requisite surveillance.

Terms of authorisation of discharge of substances in list I or II

10.—(1) This regulation applies where–

(a) a direct discharge of any substance in list I or II is authorised in accordance with regulation 5(6) or 6; or

(b) waste water disposal which inevitably causes an indirect discharge of any substance in list II is authorised in accordance with regulation 6.

(2) In a case where this regulation applies the authorisation shall specify in particular–

(a) the place where the discharge may be made;

(b) the method of discharge which may be used;

(c) the essential precautions which must be taken, paying particular attention to the nature and concentration of any substance in list I or II present in the effluent, the characteristics of the receiving environment and the proximity of water catchment areas, in particular those for drinking, thermal and mineral water;

(d) the maximum quantity of any such substance permissible in the effluent during one or more specified periods of time and the appropriate requirements as to the concentration of any such substance;

(e) the arrangements for monitoring effluents discharged into groundwater;

(f) if necessary, measures for monitoring groundwater, and in particular its quality.

Terms of authorisation for disposal or tipping for the purpose of disposal

11.—(1) This regulation applies where–

(a) any disposal, or tipping for the purpose of disposal, of any matter which might lead to an indirect discharge of any substance in list I or II is authorised in accordance with regulation 5 or 6; and

(b) in the case of a disposal, it is not a disposal of waste water to which regulation 10(1)(*b*) applies.

(2) In a case where this regulation applies the authorisation shall specify in particular–

(a) the place where the disposal or tipping may be done;

(b) the methods of disposal or tipping which may be used;

(c) the essential precautions which must be taken, paying particular attention to the nature and concentration of any such substance present in the matter to be disposed of or tipped, the characteristics of the receiving environment and the proximity of water catchment areas, in particular those for drinking, thermal and mineral water;

(d) the maximum quantity permissible, during one or more specified periods of time, of the matter containing any such substance and, where possible, of any such substance, to be tipped or disposed of and the appropriate requirements as to the concentration of any such substance;

(e) the technical precautions to be implemented to prevent any discharge into groundwater of any substance in list I and any pollution of such water by any substance in list II;

(f) if necessary, the measures for monitoring the groundwater, and in particular its quality.

Period and conditions of authorisation

12.—(1) An authorisation of—

(a) a direct discharge of any substance in list I or II; or

(b) any disposal, or tipping for the purpose of disposal, of any matter which might lead to an indirect discharge of any substance in list I or II,

may be granted for limited period only, and must be reviewed at least once in every 4 years when it may be renewed, amended or revoked.

(2) If the applicant for any such authorisation states, or it is otherwise evident, that he will be unable to comply with the conditions of the proposed authorisation, the authorisation shall not be granted.

(3) The Department shall monitor compliance with the conditions of any such authorisation and the effects of discharges on groundwater.

(4) If the conditions of any such authorisation are not complied with, the appropriate steps shall be taken to ensure compliance and, if necessary, the revocation of the authorisation.

Inventory of authorisations

13. The Department shall keep an inventory of authorisations of–

(a) direct or indirect discharges of any substance in list I;

(b) direct discharges of any substance in list II; and

(c) artificial recharges for the purposes of groundwater management.

Application of measures not to lead to pollution of groundwater

14. The application of the measures taken pursuant to these Regulations may on no account lead, either directly or indirectly, to pollution of groundwater.