

Subsidiary Legislation made under s.18.

Environment (Abstraction of Ground Water) Regulations 2007

LN.2007/038

Commencement (LN.2007/060)

30.4.2007

Amending
enactments

Relevant current
provisions

Commencement
date

LN. 2008/086 rr. 2, 4, 6-7, 8(1), 11

20.11.2008

EU Legislation/International Agreements involved:
Directive 92/43/EEC

2005-27

Environment

2007/038 Environment (Abstraction of Ground Water) Regulations
2007

ARRANGEMENT OF REGULATIONS

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In exercise of the powers conferred upon it by section 18 of the Environment Act 2005 the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Environment (Abstraction of Ground Water) Regulations 2007 and come into operation on the day appointed by the Government by notice in the Gazette.

Interpretation.

2. In these Regulations—

“European Site” means—

- (a) a Special Area of Conservation,
- (b) a site of Community importance which has been placed on the list referred to in the third sub-paragraph of Article 4(2) of the Habitats Directive,
- (c) a site hosting a priority natural habitat type or priority species in respect of which consultation has been initiated under Article 5(1) of the Habitats Directive, during the consultation period or pending a decision of the Council under Article 5(3), or
- (d) an area classified pursuant to Article 4(1) or (2) of the Wild Birds Directive;

“ground water” means any water contained in an underground strata;

“Habitats Directive” means Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, as the same may be from time to time amended;

“Minster” means the Minister with responsibility for the environment;

“Natura 2000” means the European network of special areas of conservation and special protection areas under the Wild Birds Directive provided for in Article 3(1) of the Habitats Directive;

“Special Area of Conservation” means a site that has been designated as a Special Area of Conservation under section 17C of the Nature Protection Act 1991;

Restriction on abstraction of ground water.

3.(1) Subject to the following provisions of these Regulations no person shall abstract ground water or cause or permit any other person to abstract any such water, except in pursuance of a licence under these Regulations granted by the Minister.

(2) A person shall be guilty of an offence if—

(a) he contravenes subregulation (1); or

(b) being the holder of a licence under these Regulations he contravenes a condition or requirement imposed by the provisions of that licence.

(3) A person who is guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Right to abstract small quantities.

4. Regulation 3 shall not apply to the abstraction of ground water in so far as the water is abstracted by or on behalf of an individual as a supply of water for the domestic purposes of his household, unless the abstraction is such that the quantity of water abstracted exceeds twenty cubic metres in aggregate in any period of twenty-four hours.

Applications for a licence.

5. An application for a licence under these Regulations shall be made to the Minister in such manner and shall be accompanied by such information as he may require.

Issue of licence.

6.(1) Subject to subregulations (2) to (5) and regulations 7 and 8, the Minister may issue licences for the abstraction ground water.

(2) In considering an application for a licence the Minister shall have regard to whether there is likely to be any implications for a European Site.

(3) Where the Minister has reason to believe that the issue of a licence may have implications for a European Site, the Minister shall require the applicant to submit an assessment under regulation 7.

(4) The Minister may issue a licence where he is satisfied that individually or in combination with other abstractions of the same ground water body there are no adverse effects on the European Site's conservation objectives.

(5) Subject to regulation 8 the Minister shall not issue a licence unless he is satisfied that the issue of the licence would not have a negative effect on the European Site's conservation objectives.

Assessment.

7. For the purposes of this regulation an assessment of the implications of the proposed abstraction of ground water on the European Site's conservation objectives shall take into consideration the implications of the proposed project individually and also in combination with other abstractions from the same underground strata.

Licence where negative impact.

8.(1) Where there are negative implications for the European Site the Minister may subject to subregulation (3) issue a licence if–

- (a) he is satisfied that there are no alternative solutions available; and
- (b) there are imperative reasons of overriding public interest, including those of a social or economic nature.

(2) Where subsection (1) is relied upon for the issue of a licence, that licence must include such conditions as may be required to ensure that all compensatory measures are taken to ensure that the overall coherence of Natura 2000 is protected.

(3) Where a Special Area of Conservation hosts a priority natural habitat type or a priority species or both, the Minister may only grant a licence if–

- (a) the abstraction of water is required for reasons of public health or public safety or both;
- (b) the abstraction of water has beneficial consequences of primary importance for the environment; or
- (c) pursuant to Article 6(4) of the Habitats Directive the European Commission issues an opinion that there are other imperative reasons of overriding public interest.

Amendment etc. of licences.

9. A licence issued pursuant to these Regulations may be amended, revoked, renewed, reviewed or issued subject to conditions, either on the application of a person affected by the matters to which the licence relates or, as the case may be, at the Minister's discretion.

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Public consultation.

10. In any case where the Minister is minded to issue a licence under these Regulations, the Minister shall consider whether it is appropriate to consult with the public and where he deems it appropriate shall consult the public in such a manner as he deems fit.

Communication of compensatory measures.

11. Where a licence issued under regulation 8 includes compensatory measures under subregulation (2) the Minister shall inform the European Commission of those compensatory measures.