

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4099 of 24 July, 2014

LEGAL NOTICE NO. 134 OF 2014

ENVIRONMENT ACT 2005

ENVIRONMENT (PROTECTION OF GROUNDWATER) (AMENDMENT) REGULATIONS 2014

In exercise of the powers conferred upon it by section 18 of the Environment Act 2005 and for the purpose of further transposing into the law of Gibraltar 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, the Government has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Environment (Protection of Groundwater) (Amendment) Regulations 2014 and come into operation on the day of publication.

Amendment.

2. The Environment (Protection of Groundwater) Regulations 2009 (the principal Regulations) are amended in accordance with the provisions of these Regulations.

Amendment to regulation 2.

3. Regulation 2 of the principal Regulations is amended by substituting the following definitions for the definition of “baseline level”—

““baseline level” means the average value measured at least during the reference years 2007 and 2008 on the basis of monitoring programmes implemented under rule 9 of the Water Framework Rules or, in the case of substances, identified after these reference years, during the first period for which a representative period of monitoring data is available;

“BGTW” means British Gibraltar Territorial Waters which is the area of sea, the sea bed and subsoil within the seaward limits of the territorial sea adjacent to Gibraltar under British sovereignty and

which, in accordance with the United Nations Convention on the Law of the Sea 1982, currently extends to three nautical miles and to the median line in the Bay of Gibraltar;”.

Amendments to regulation 3.

4. Regulation 3 of the principal Regulations is amended-

(a) after subregulation (1) by inserting the following subregulation-

“(1A) The threshold values referred to in subregulation (1) can be established at a Gibraltar-wide level, at the level of the river basin district or the part of the international river basin district falling within Gibraltar or BGTW, or at the level of a body or a group of bodies of groundwater.”; and

(b) by inserting the following subregulations after subregulation (5)-

“(6) The threshold values must be established for the first time as soon as possible after coming into force of these Regulations.

(7) The threshold values applicable to good chemical status shall be based on the protection of the body of groundwater in accordance with paragraph 3(a) to (c) of Part 1 of Schedule 1, having particular regard to its impact on, and interrelationship with, associated surface waters and directly dependent terrestrial ecosystems and wetlands and shall inter alia take into account human toxicology and ecotoxicology knowledge.”.

Amendments to regulation 4.

5. Regulation 4(2)(c)(ii) of the principal Regulations is amended by substituting “paragraph 4 of Schedule 3 to these Regulations” for “paragraph 4 of that Schedule”.

Amendments to regulation 5.

6. Regulation 5(2) of the principal Regulations is amended by substituting “to the quality of aquatic ecosystems or terrestrial ecosystems, to human health, or to actual or potential legitimate uses of the water environment, through the programme of measures referred to in rule 10” for “to human health or the environment, through the programme of measures referred to in rule 9”.

Amendment to regulation 6.

7. Regulation 6 of the principal Regulations is amended by inserting the following subregulation after subregulation (1)-

“(1A) The measures referred to in subregulation (1)(b) shall take account of, at least, established best practice, including the Best Environmental Practice and Best Available Techniques specified in the relevant European Union legislation.”.

Amendments to regulation 7.

8. Regulation 7 of the principal Regulations is amended-

- (a) by inserting in subregulation (1)(a) “paragraph 3(j) of Part 1 of Schedule 8A of” after “in accordance with”;
- (b) by inserting in subregulation (1)(d) “ paragraph 3(f) of Part 1 of Schedule 8A of” after “in accordance with”; and
- (c) by inserting the words “including at international level” and the end of paragraph (f); and
- (d) by substituting subregulation (2) with the following subregulations-

“(2) The interventions under subregulation (1)(f), including cutting, dredging, relocation and deposition of sediments in surface water, shall be conducted in accordance with general binding rules, and, where applicable, with permits and authorisations issued on the basis of such rules by the Competent Authority for that purpose, provided that such inputs do not

compromise the achievement of the environmental objectives established for the water bodies concerned in accordance with paragraph 1(b) of Schedule 7 to the Water Framework Rules.

- (2A) The exemptions provided for in subregulation (1)(a) to (f) may be used only where the Competent Authority has established that efficient monitoring of the bodies of groundwater concerned, in accordance with paragraph 2.4.2 of Schedule 6 to the Water Framework Rules, or other appropriate monitoring, is being carried out.”

Substitution of regulation 8.

9. The principal Regulations are amended by substituting the following regulation for regulation 8-

“Transitional arrangements.

8. Any authorisation granted pursuant to the procedure set out in Directive 80/68/EEC in the period between 16 January 2009 and 22 December 2013 shall be amended to the extent necessary to take into account the requirements set out in regulations 3, 4 and 5 and Schedules 1 to 4 of these Regulations.”

Amendments to Schedule 1.

10. Schedule 1 of the principal Regulations is amended-

- (a) in paragraph 1 of PART I by substituting “rule 5 of the Water Framework Rules” for “the Water Policy Framework Rules”;
- (b) in paragraph 2 of PART I by inserting “referred to in regulation 4(2) (c) (ii), (iii) and (iv)” after “chemical status”;
- and
- (c) in paragraph 8 of PART III-
- (i) by inserting “ the number of bodies or groups of bodies of” after “information on” in sub-paragraph (a);

- (ii) by substituting “each of the bodies of groundwater characterised as being at risk, in particular the size of the bodies, the relationship between the bodies of groundwater ” for “groundwater characterised as being at risk,” in sub-paragraph (b); and
- (iii) by substituting “falling within Gibraltar or BGTW, or at the level of a body or a group of bodies of groundwater” for “or at the level of groundwater” in sub-paragraph (c).

Amendments to Schedule 2.

11. Schedule 2 of the principal Regulations is amended by substituting the following paragraph for paragraph 3-

- “3. Where, for a given body of groundwater, it is considered that the groundwater quality standards could result in failure to achieve the environmental objectives specified in Schedule 7 of the Water Framework Rules for associated bodies of surface water, or in any significant diminution of the ecological or chemical quality of such bodies, or in any significant damage to terrestrial ecosystems which depend directly on the body of groundwater, more stringent threshold values will be established in accordance with regulation 4 and Schedule 1 to these Regulations.”.

Substitution of Schedule 3.

12. The principal Regulations are amended by substituting the following Schedule for Schedule 3-

“SCHEDULE 3

Regulations 4 and 5

ASSESSMENT OF GROUNDWATER CHEMICAL STATUS

1. The assessment procedure for determining the chemical status of a body or a group of bodies of groundwater will be carried out in relation to all bodies or groups of bodies of groundwater characterised as being at risk and in relation to each of the

pollutants which contribute to the body or group of bodies of groundwater being so characterised.

2. In undertaking any investigations referred to in regulation 4(2)(c), the Competent Authority shall take into account-
 - (a) the information collected as part of the characterisation to be carried out in accordance with rule 5 of the Water Framework Rules and with paragraphs 2.1, 2.2 and 2.3 of Schedule 3 of those Rules;
 - (b) the results of the groundwater monitoring network obtained in accordance with paragraph 2.4 of Schedule 6 to those Rules; and
 - (c) any other relevant information including a comparison of the annual arithmetic mean concentration of the relevant pollutants at a monitoring point with the groundwater quality standards set out in Schedule 2 of these Regulations and the threshold values set by the Competent Authority in accordance with regulation 4 and Schedule 1 of these Regulations.
3. For the purposes of investigating whether the conditions for good groundwater chemical status referred to in regulation 4(2)(c)(i) and (iv) are met, the Competent Authority shall, where relevant and necessary, and on the basis of appropriate aggregations of the monitoring results, supported where necessary by concentration estimations based on a conceptual model of the body or group of bodies of groundwater, estimate the extent of the body of groundwater having an annual arithmetic mean concentration of a pollutant higher than a groundwater quality standard or a threshold value.
4. For the purposes of investigating whether the conditions for good groundwater chemical status referred to in regulation 4(2)(c)(ii) and (iii) are met, the Competent Authority shall, where relevant and necessary, and on the basis of relevant monitoring results and of a suitable conceptual model of the body of groundwater, assess-

- (a) the impact of the pollutants in the body of groundwater;
 - (b) the amounts and the concentrations of the pollutants being, or likely to be, transferred from the body of groundwater to the associated surface waters or directly dependent terrestrial ecosystems;
 - (c) the likely impact of the amounts and concentrations of the pollutants transferred to the associated surface waters and directly dependent terrestrial ecosystems;
 - (d) the extent of any saline or other intrusions into the body of groundwater; and
 - (e) the risk from pollutants in the body of groundwater to the quality of water abstracted, or intended to be abstracted, from the body of groundwater for human consumption.
5. The Competent Authority shall present the groundwater chemical status of a body or a group of bodies of groundwater on maps in accordance with paragraphs 2.4.5 and 2.5 of Schedule 6 of the Water Framework Rules.
6. The Competent Authority shall, in addition, indicate on these maps all monitoring points where groundwater quality standards and/or threshold values are exceeded, where relevant and feasible.”.

Amendments to Schedule 4.

13. Schedule 4 of the principal Regulations is amended-

- (a) by inserting in paragraph 1 of PART I “all bodies or groups of bodies of” after “upward trends in”;
- (b) by inserting in paragraph 1(2)(iv) of PART II “ the body of” after “characteristics of”;
- (c) by inserting in paragraph 2(2) of PART II “rule 10 and Schedule 7 of” after “such Directive and with”;

- (d) by inserting in paragraph 2(3) of PART II-
- (i) “a body of” after “has been established for”; and
 - (ii) “management plan” after “cycle of the river basin”.

Dated 24th July, 2014.

DR J CORTES,
Minister with responsibility for the environment,
For the Government.

EXPLANATORY MEMORANDUM

These Regulations amend the Environment (Protection of Groundwater) Regulations 2009 in order to further transpose 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.

