



# **Western River Basin District Water - Policy and Legislation Report**

**Western River Basin District Project Office  
Unit 2, Block 17  
Liosban Industrial Estate,  
Tuam Road  
Galway**

**June 2007**

<b>REVISION CONTROL TABLE</b>	
<b>File</b>	Legislative Review_Final_June_2007
<b>Reference:</b>	
<b>Client / Recipient:</b>	Western River Basin District – Galway County Council
<b>Project Title:</b>	Legislative Review
<b>Report Title:</b>	Western River Basin District – Water Policy and Legislation
<b>Report No.:</b>	001
<b>Rev. No.:</b>	001
<b>Volume 1 of 1</b>	
<b>Prepared by:</b>	Gerry Kelly (ESB International),
<b>Checked by:</b>	Pat Canney (Western RBD Coordinator)
<b>APPROVED:</b>	P. Kavanagh ESB International
	<b>DATE:</b> June 2007

#### Change History of Report

<b>Date</b>	<b>New Rev</b>	<b>Author</b>	<b>Summary of Change</b>
11/06/07	WRc, Pauline Jones Ian Codling NWRF WRF E Mayes P Canney	Paddy Kavanagh	Section on the Water Framework Directive and EU (Water Policy) Regulations updated. Water Act 2007 included. Minor amendments to groundwater legislation, and fisheries and marine roles. Update of habitats legislation.

***COPYRIGHT © ESB INTERNATIONAL LIMITED***

*ALL RIGHTS RESERVED, NO PART OF THIS WORK MAY BE MODIFIED OR REPRODUCED OR COPIES IN ANY FORM OR BY ANY MEANS - GRAPHIC, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, TAPING OR INFORMATION AND RETRIEVAL SYSTEM, OR USED FOR ANY PURPOSE OTHER THAN ITS DESIGNATED PURPOSE, WITHOUT THE WRITTEN PERMISSION OF ESB INTERNATIONAL LIMITED.*

---

## Table of Contents

<b>1. INTRODUCTION.....</b>	<b>1</b>
<b>2. LEGISLATIVE STRUCTURE.....</b>	<b>2</b>
2.1 TYPES OF LEGISLATION.....	2
2.2 DEFINITION OF ENVIRONMENTAL POLLUTION .....	3
2.3 TYPES OF ENVIRONMENTAL STANDARDS.....	3
2.4 ENVIRONMENTAL RESPONSIBILITIES – VARIOUS ORGANISATIONS .....	4
<b>3. EUROPEAN LEGISLATION .....</b>	<b>11</b>
3.1 WATER QUALITY OBJECTIVES .....	11
3.2 DISCHARGES OF DANGEROUS SUBSTANCES .....	14
3.3 MARINE POLLUTION.....	19
3.4 RELATED MATTERS .....	19
<b>4. WATER FRAMEWORK DIRECTIVE.....</b>	<b>26</b>
4.1 INTRODUCTION.....	26
4.2 KEY TASKS OF WATER FRAMEWORK DIRECTIVE .....	26
4.3 IMPLEMENTATION .....	27
4.4 RIVER BASIN DISTRICTS .....	27
4.5 CHARACTERISATION .....	29
4.6 MONITORING .....	30
4.7 PROGRAMME OF MEASURES.....	30
4.8 WATER PRICING POLICIES .....	30
4.9 PUBLIC INFORMATION AND CONSULTATION.....	31
<b>5. IRISH LEGISLATION.....</b>	<b>32</b>
5.1 INTRODUCTION.....	32
5.2 WATER QUALITY ORIENTED LEGISLATION .....	33
5.3 EMISSIONS CONTROL LEGISLATION.....	42
5.4 RELATED WATER SECTOR LEGISLATION.....	47

## 1. INTRODUCTION

---

As part of a substantial restructuring of European Union (EU) water policy and legislation, a Directive establishing a new framework for Community action in the field of water policy (**2000/60/EC**) was agreed by the European Parliament and Council in 2000. It entered into force on 22 December 2000.

The Directive, generally known as the **Water Framework Directive**, transforms water legislation and will eventually repeal a number of existing Directives, and provides for water management on the basis of River Basin Districts (RBD's).

The main activities for the implementation of the Water Framework Directive will take place in the context of **River Basin Management Projects** led by local authorities. The **Department of the Environment, Heritage and Local Government** has promoting the establishment by local authorities of such projects to address all inland and coastal waters and these have been funded under the National Development Plan.

The overall objective of River Basin Management Projects is to establish an integrated monitoring and management system for all waters within a RBD, to develop a dynamic programme of management measures and to produce a River Basin Management Plan, which will be updated every six years.

Central to the Water Framework Directive is a requirement for Member States to encourage the active involvement of all interested parties in its implementation.

The purpose of this report is to give an overview of European and National legislation relevant to the objective of the project, giving particular emphasis to the Water Framework Directive.

**THIS DOCUMENT IS INTENDED TO ACT AS A HELPFUL SUMMARY OF SOME OF THE RELEVANT AND APPLICABLE LEGISLATION IN IRELAND IN RESPECT OF WATER. IT IS NOT A SUBSTITUTE FOR LEGAL ADVICE AND SHOULD NOT BE USED FOR THAT PURPOSE. PERSONS WISHING TO EXPLORE THE EXACT NATURE OF THE REQUIREMENTS ARE URGED TO CONSULT THE RELEVANT PROVISIONS THEMSELVES AND/OR TO OBTAIN INDEPENDENT LEGAL ADVICE.**

---

## 2. LEGISLATIVE STRUCTURE

---

### 2.1 TYPES OF LEGISLATION

Acts, Regulations, Orders and Statutory Instruments are the main types of Irish legal instruments in Ireland They are as follows:

- **Act** - legislation which has been passed by both Houses of the Oireachtas and signed by the President;
- **Regulation** - pertains to European Union (EU) law - has general application and is binding in its entirety and directly applicable in all Member States;
- **Ministerial Order** - power of the Minister to make secondary legislation under and subordinate to an Act of the Oireachtas; and
- **Statutory Instrument** - an order, regulation, rule, scheme or bye-law made in exercise of a power conferred by statute. (Definition laid down in Statutory Instrument Act, 1947). Formal document and incorporates ministerial order.

Irish Acts have increasingly become broad based enabling legislation which provide for the making of regulations or orders, usually in the form of statutory instruments, to deal with specific implementation issues.

In recent years Irish legislation has been European Union driven to a significant extent. Treaties are the primary source of EU law. Treaties set out the fundamental laws of the Union which must be agreed and ratified by the Member States. The European Commission, the Council of the European Union and the European Parliament have shared power to make legislation - the secondary source of European Law.

The various types of legal instruments emanating from the EU include:

- **Regulations** - are of general application, are binding in their entirety and immediately application to all Member States;
- **Directives** - are binding on the Member States to which they are addressed as regards the result to be achieved, leave the form and methods of achieving it to the discretion of the national authorities;
- **Decisions** - may be addressed to a government, or to an enterprise or to a private individual, are binding in their entirety on those to whom they are addressed; and
- **Recommendations, Opinions and Resolutions** - are not binding.

EU legislation comes into effect on the date which it is published in the Official Journal of the Community. EU legislation is superior to all national legislation and, therefore, Irish legislation must set equal or more stringent requirements.

## 2.2 DEFINITION OF ENVIRONMENTAL POLLUTION

There are a number of possible definitions. In Ireland environmental pollution means as follows:

- Air pollution, which is defined as a condition of the atmosphere in which a pollutant is present in such a quantity as to be liable to:
  - Be injurious to public health;
  - Have a deleterious effect on flora or fauna or the environment, or damage property; or
  - Impair or interfere with amenities or with the environment.
- With regard to water polluting matter includes any poisonous or noxious matter, and any substance (including any explosive, liquid or gas) the entry or discharge of which into any waters is liable to render those or any other water poisonous or injurious to fish, spawning grounds or the food of any fish, or to injure fish in their value as human food, or to impair the usefulness of the bed and soil of any waters as spawning grounds or their capacity to produce the food of fish or to render such waters harmful or detrimental to public health or to domestic, commercial, agricultural or recreational uses.
- The disposal of waste in a manner which would endanger human health or harm the environment and in particular:
  - Create a risk to waters, the atmosphere, land, soil plants or animals;
  - Cause a nuisance through noise or odours; or
  - Adversely affect the countryside or places of special interest.
- Noise which is a nuisance, or would endanger human health or damage property or harm the environment.

## 2.3 TYPES OF ENVIRONMENTAL STANDARDS

Environmental standards are broadly of two types as follows:

### 2.3.1 Ambient Standards

- Ambient standards set maximum allowable levels of a pollutant in the receiving medium (air, water or soil). Ambient standards offer a simple method of establishing priorities, since areas that comply with the relevant ambient standards are considered to require no further intervention, while other areas may be ranked by the extent to which concentrations exceed the ambient standards.
- Setting ambient standards requires an explicit agreement on the environmental quality objectives that are desired and the costs that society is willing to accept to meet those objectives. However, because ambient standards can be set at different levels for different locations, it is possible to use them to protect valuable ecosystems in a way that would not be possible by using emissions standards.

- 
- It has been usual to establish an ambient standard for a pollutant by referring to the health effects of different levels of exposure, although some countries are moving toward ambient standards aiming to protect natural ecosystems.
  - Historically, ambient standards in the industrial market economies have been continually tightened in the light of medical evidence on the impact of certain pollutants and in response to increased demand for better environmental quality. In particular, as reductions are achieved in the levels of simple pollutants such as biological oxygen demand (BOD), the focus has moved to the control of less obvious but more persistent pollutants such as heavy metals, polychlorinated biphenyls (PCBs), and the like, which are cumulative and essentially not bio-degradable.

### 2.3.2 Emissions Standards

- Emissions standards set maximum amounts of a pollutant that may be given off by an industrial plant or other source. They have typically been expressed as concentrations, although there is increasing use of load-based standards, which reflect more directly the overall objective of reducing the total load on the environment. Emissions standards may be established in terms of what can be achieved with available technology or in terms of the impacts of the emissions on the ambient environment.
- Technology-based standards are based on knowledge of what can be achieved with current equipment and practices. A wide range of principles has been used, including BAT (Best Available Technology) and BATNEEC (Best Available Technology (Techniques) Not Entailing Excessive Costs). All these approaches are open to interpretation and are related to establishing what are the highest levels of equipment and performance that can reasonably be demanded from industrial plants.
- Alternatively, emissions standards can be established by estimating the discharges that are compatible with ensuring that receiving areas around the plant meet the ambient standards defined for the pollutant. This, however, requires considerable information on both the sources and the ambient environment and varies from area to area.

## 2.4 ENVIRONMENTAL RESPONSIBILITIES – VARIOUS ORGANISATIONS

The core players involved in protecting, monitoring, policing and planning for a better environment in Ireland include the following:

### [Environmental Protection Agency](#)

The Environmental Protection Agency (EPA) is an independent public body established under the Environmental Protection Agency Act, 1992. The other main instruments from which it derives its mandate are the Waste Management Act, 1996 and the Protection of the Environment Act, 2003.

The EPA has a wide range of functions to protect the environment:

- License and control large scale activities to ensure that they do not endanger human health or harm the environment, e.g. landfills, incinerators, pharmaceutical manufacturing, cement, power plants, intensive agriculture, large petrol storage facilities and the contained use and controlled use of GMOs - (local authorities are responsible for small scale activities);

- 
- National environmental policing - conducting audits and inspections of licensed facilities targeting offenders and eliminating illegal waste activity;
  - Oversee local authorities' environmental protection responsibilities;
  - Monitor and analyse the environment - air, water (surface and ground), soil;
  - Independent reporting on the state of Ireland's environment to inform decision making;
  - Independent reporting of trends in waste generation, management and infrastructure;
  - Regulate Ireland's greenhouse gas emissions - monitor Kyoto requirements and implement the Emissions Trading Directive;
  - Co-ordinate research and development on environmental issues under a research and development programme;
  - Assess the impact of proposed major developments on Ireland's environment;
  - Provide guidance to the public and industry on environmental concerns - e.g. compliance with environmental laws; licence applications; waste prevention etc.;
  - Generate greater environmental awareness through the production of educational materials;
  - Promote waste prevention and minimisation projects through the coordination of the National Waste Prevention Programme; and
  - Develop a National Hazardous Waste Management Plan to prevent and manage hazardous waste.

#### **Department of Environment, Heritage and Local Government**

The Department of Environment, Heritage and Local Government's (DEHLG) functions regarding environmental protection include:

- Environmental policy development;
- Provide legislative framework for environmental protection and improvement; and
- Development of investment programmes in water, waste water and waste management infrastructure.

#### **National Parks and Wildlife Service (Department of the Environment, Heritage and Local Government)**

The National Parks and Wildlife Service has a remit to include:

- Develop and implement nature conservation legislation including the Habitats and Birds Directives
- Establish and manage National Parks;

- 
- Designate SACs, SPAs, nature reserves, NHAs and other conservation sites under EU and National legislation, conduct habitat, flora and fauna surveys and assess conservation status, develop, implement and audit management plans; and
  - Wildlife protection and conservation planning e.g. fresh-water pearl mussel, birds, bats.

### **Local Authorities**

Primary environmental responsibilities of Local Authorities include:

- Water:
  - Develop and implement River Basin Management Plans and Programmes of Measures to achieve the WFD objectives;
  - Develop County Development Plans, Regional Development Plans and Local Area Plans;
  - Provide drinking water to EU quality standards through public water supplies and monitor private water supplies;
  - Operate waste water treatment facilities; and
  - Maintain clean beaches and bathing water.
  - Control discharges to the aquatic environment
- Waste Services:
  - Develop and action regional waste management plans;
  - Issue waste permits for small scale waste disposal and recovery facilities;
  - Provide and service recycling facilities - including bring banks and recycling parks;
  - Ensure producers are compliant with packaging waste legislation;
  - Police illegal waste activity; and
  - Authorise cross-border shipments of waste.
- Community Services:
  - Litter control, including road sweeping and fly tipping removal;
  - Remove abandoned vehicles;
  - Action against noise / odour/ dust polluters (from non-EPA licensed facilities; and
  - Air quality monitoring and management.
- Planning:
  - Assess planning application in functional area.

---

### **Department of Agriculture and Food**

The Department of Agriculture and Food (DAF) leads the sustainable development of a competitive, consumer focussed agri-food sector and to contribute to a vibrant rural economy and society and operates within Europe's Common Agricultural Policy and environmental controls. The department undertake monitoring of

- [cross-compliance](#) whereby all farmers are required to respect the various Statutory Management Requirements set down in European legislation on the environment and on public, animal and plant health and animal welfare and to maintain land in Good Agricultural and Environmental Condition;
- overseeing the implementation of the Nitrates Action Programme to provide statutory support for good agricultural practice in protecting waters from nutrient inputs;
- provision of guidance on good agricultural practice such as the [Handbook on Good Agricultural Practice](#);
- development and administration of agri-environment schemes such as the [Rural Environmental Protection Schemes](#) (REPS);
- provision of investment aid for improved storage for farm manure and management.

### **Forest Service, (DAF)**

The Forest Service is responsible for ensuring the development of forestry within Ireland in a manner and to a scale that maximises its contribution to national socio-economic well-being on a sustainable basis that is compatible with the protection of the environment. To ensure compatibility between forestry development and the protection of the environment, the Forest Service implements a policy of Sustainable Forest Management (SFM) and has developed

- Irish National Forest Standard,
- Code of Best Forest Practice
- Environmental guidelines (relating to water quality, landscape, archaeology, biodiversity and harvesting)

### **Department of Communications, Marine and Natural Resources**

Primary environmental responsibilities of the Department of Communications, Marine and Natural Resources (DCMNR) include:

Marine:

- Promote and protect the quality of the Marine Environment; and
- Bring into force laws, regulations and administrative provisions necessary to implement marine environment Directives
- Assist in the development of a National Integrated Coastal Zone Management Strategy;
- Facilitate the necessary upgrading of major national infrastructure and the sustainable development of aquaculture;

- 
- License Marine activities such as aquaculture
  - Minimise the dumping of dredged material at sea and to encourage beneficial re-use of such material (e.g. for land reclamation, beach nourishment, etc.).

Energy:

- Energy planning and policy formulation; and

Natural Resources:

- Oversee exploration of indigenous oil and gas resources, ensuring regard to the environment.

In respect of inland waters the DCMNR purpose statement is "To conserve the inland fisheries resource in its own right and its viability and economic and social contribution at national, local and community level." ([www.Dcmnr.ie](http://www.Dcmnr.ie))

For inland waters its strategic objectives are as follows:

- Ensure the effective conservation, primarily through the Fisheries Boards, of inland fish habitats and stocks.
- Deliver effective and value for money management of the inland fisheries service.
- Ensure effective legislative and regulatory framework for inland fisheries.
- Encourage sustainable development of the commercial and recreational fishing resource.

### **Marine Institute**

The Marine Institute's functions regarding environmental protection include:

- Marine environmental monitoring - to assess environmental standards and seafood safety to ensure that it is safe for consumption; and
- Research and development in the marine environment.

### **Geological Survey of Ireland**

The Geological Survey of Ireland (GSI) is the National Earth Science Agency. It is responsible for providing geological advice and information, and for the acquisition of data for this purpose. In brief the GSI

- acts as a knowledge centre and national repository for all aspects of Irish geology;
- contributes to sustainable national development and environmental protection by providing decision-makers and stakeholders with easily accessible and up to date best available geological information;
- Maps Irelands earth resources;
- Provides guidance, assistance and expertise in the assessment of pressures and impacts on groundwater under the Water Framework Directive implementation programme;

- 
- Provides guidance and advice on the development and implementation of the groundwater monitoring aspect of the National WFD Monitoring Programme;

The GSI is a division of the Department of Communications, Marine & Natural Resources (DCMNR)

### **Central Fisheries Board and Regional Fisheries Boards**

Primary environmental responsibilities of the Central Fisheries Board and Regional Fisheries Boards include:

- Fisheries protection and conservation (inland waterways and 12 mile limit off coast) - the species that are protected include salmon, sea trout, sea bass, molluscs, eels and all freshwater fish;
- Combat effects of pollution that result in fish kills; and
- Ongoing monitoring of water quality to assess the concentration of essential elements and nutrients and to assess physical features such as gradient, water temperature, volume flow rate, fish community composition and abundance.
- Research and control of alien invasive aquatic species

### **Office of Public Works**

The Office of Public Works' (OPW) functions regarding environmental protection include:

- Exercise statutory responsibility in respect of river drainage and flood relief;
- Preserve the productive potential of the agricultural land served by drainage schemes; and
- Provides a hydrometric service and flood relief design service.

### **Radiological Protection Institute of Ireland**

The Radiological Protection Institute of Ireland's (RPII) functions regarding environmental protection include:

- Measure levels of radioactivity in the terrestrial and marine environment;
- Carry out research on radioactivity in the terrestrial and marine environment;
- Measure radon gas in homes and workplaces;
- Regulate and licence activities involving radioactive substances; and
- Advise government and the public on matters pertaining to radiological safety.

### **Health and Safety Authority**

The Health and Safety Authority (H&SA) has a remit to include:

- Administration and enforcement of health and safety in the workplace only;
- Advise on work hazards e.g. asbestos removal;

- Implementation of a range of chemical safety legislation including the classification, packaging and labelling of dangerous chemicals; importing and exporting dangerous chemicals; and
- Implementation of legislation controlling major accident hazards involving dangerous substances (SEVESO).

### An Taisce

An Taisce (the National Trust for Ireland) has a remit to include:

- Statutory consultee with regard to development planning;
- National operator Campaign in Ireland for the International Blue Flag Campaign carried out by the member organisations of the Foundation for Environmental Education (FEE).

---

### 3. EUROPEAN LEGISLATION

---

Water is one of the most comprehensively regulated areas of EU environmental legislation. Early European water policy began in the 1970s with the First Environmental Action Programme in 1973 followed by a first wave of legislation, starting with the 1975 Surface Water Directive and culminating in the 1980 Drinking Water Directive.

This first tranche of water legislation included water quality standard legislation on fish waters (1978), shellfish waters (1979), bathing waters (1976) and groundwaters (1980). In the field of emission limit value legislation, the Dangerous Substances Directive (1976) and its Daughter Directives on various individual substances were adopted.

A second tranche of water legislation followed a review of existing legislation and an identification of necessary improvements and gaps to be filled. This phase of water legislation included the Urban Waste Water Treatment Directive (1991) and the Nitrates Directive (1991). Other elements identified were revisions of the Drinking Water and Bathing Water Directives to bring them up to date, the development of a Groundwater Action Programme and a 1994 proposal for an Ecological Quality of Water Directive. Additionally, for large industrial installations, the Integrated Pollution Prevention and Control Directive (1996) also covered measures to control water pollution.

Water legislation adopted by the EU over the past two decades can be divided into the following broad categories:

- Directives and Regulations setting water quality objectives for various uses;
- Directives which sought to limit or prohibit discharges of dangerous substances into waters by industrial plants;
- Provisions on marine pollution: These aim primarily to put an end to pollution, protect the North Sea, the Baltic and the Mediterranean and to prevent pollution from land-based sources; and
- Related matters: While there is no specific mention of water issues, these have general applicability to all environmental media.

#### 3.1 WATER QUALITY OBJECTIVES

##### [Surface Water for Drinking Directive](#)

The Directive concerning the quality required for surface water intended for the abstraction of drinking water in the Member States (75/440/EEC) (Surface Water for Drinking Directive) sets out requirements for ensuring that surface freshwater which is used for drinking meets certain standards and is adequately treated before being introduced to the public supply. Sources of drinking water are divided into three quality categories according to the appropriate standard treatment methods set out in the Directive's Annex.

The Directive requires the establishment of programmes to reduce pollution and Member States must take necessary measures to ensure a continuing improvement of surface waters, particularly those falling into the lowest category.

The Directive will be integrated into the Water Framework Directive and thus will be repealed in December 2007.

### **Surface Water for Drinking Measuring Methods Directive**

The Directive concerning the methods of measurement and frequency of sampling and analysis of surface water intended for the abstraction of drinking water in Member States (79/869/EEC) supplements the Surface Water for Drinking Directive (75/440/EEC) by laying down methods of measurement and the frequency of sampling and analysis to determine the quality of surface water in Member States.

The Directive will be integrated into the Water Framework Directive and thus will be repealed in December 2007.

### **Drinking Water Directive**

The Directive on the quality of water intended for human consumption (98/83/EC) (Drinking Water Directive) aims to protect human health from the adverse effects of any contamination of water intended for human consumption or use in food and drink manufacture by ensuring that it is wholesome and clean.

The Directive's first Annex lists 53 water quality standards in three parts. Part A lists microbiological parameters for drinking water and bottled water. Part B lists chemical parameters. Part C lists indicator parameters. The standards assigned against the parameters in Parts A and B are obligatory, thus the Member States must set values no less stringent than these for their drinking water. Those in Part C are for monitoring purposes only. However, the Member States are required to consider whether exceedance of any indicator parameter might pose a risk to health and, if so, take remedial action.

The second Annex provides details of the parameters to be monitored, dividing them into those required for "check monitoring", thus subject to more frequent sampling and those for "audit monitoring", and thus subject to less frequent sampling.

Information is provided in the third Annex on the reference methods to be used in monitoring. For microbiological parameters a detailed analytical technique is elaborated. However, for chemical parameters precision and detection limits are given of any technique that may be used. No reference methods are provided for five of the indicator parameters, namely colour, odour, taste, total organic carbon and turbidity.

Member States report the monitoring results to the European Commission at intervals of three years.

### **Bathing Water Directive**

The Directive concerning the management of bathing water quality (2006/7/EC) (Bathing Water Directive) repeals the original Bathing Water Directive ([76/160/EEC](#)) on 31 December 2014,

---

although once the updated Directive is implemented in a Member State, the original Directive becomes void.

The purpose of the Directive is to raise over time, or maintain, the quality of bathing water, not just to protect human health, but also for reasons of amenity. This is to be done largely by ensuring that sewage is not present or has been adequately diluted or destroyed.

While the original Bathing Water Directive requires regular monitoring of 19 pollutants or other parameters, the new Directive reduces this list to just two microbiological indicators of faecal contamination, E. Coli and Intestinal Enterococci.

The Directive requires more sophisticated monitoring and classification of bathing waters compared to the original Directive. It provides for extensive public information and participation as well as for comprehensive and modern management measures. The Directive requires Member States to draw up a management plan for each site to minimise risks to bathers, based on an assessment of the sources of contamination that are likely to affect it. Where bathing waters have a history of poor water quality, preventive measures should be taken to close the bathing area when such conditions are forecast. If the water quality standards are not met, remedial measures must be taken. Information on bathing water quality classification, the results of water quality monitoring and the management plan is to be made available to the public, both through displays at the site and through the media and internet.

The Directive requires the development of profiles describing the characteristics of the bathing water and identifying sources of pollution and links management action to that under the Water Framework Directive.

### **Freshwater Fish Directive**

The Directive on the quality of fresh waters needing protection or improvement in order to support fish life (Directive 2006/44/EC of 6 September 2006) (Freshwater Fish Directive) sets quality objectives for fresh waters so as to protect fish life from discharges of pollutants. The Directive lays down sampling and monitoring procedures and definitions of conformity between Member States.

Under the Directive, Member States must designate fresh waters needing protection in order to support fish life. An Annex to the Directive defines favourable conditions for fish life by setting standards for 14 physical and chemical parameters. Each parameter is assigned guideline and imperative values for both salmonid and cyprinid waters. Member States may at any time set more stringent values for designated waters than those set in the Directive. They may also lay down provisions for parameters other than those set in the Directive.

The Directive requires the establishment of programmes to reduce pollution and to ensure that designated waters conform to the prescribed standards within five years of designation.

The Directive will be integrated into the Water Framework Directive and thus will be repealed in December 2013.

### **Shellfish Directive**

The Directive on the quality required of shellfish waters (79/923/EEC) (Shellfish Directive) aims to protect and improve the quality of coastal and brackish waters designated by Member States for shellfish growth.

Under the Directive, Member States must initially designate shellfish waters requiring protection in order to support shellfish life.

An Annex to the Directive defines favourable conditions for shellfish life by setting standards for 19 physical and chemical parameters. Each parameter is assigned guideline and imperative values. Member States may, at any time, set more stringent values for designated waters than those set in the Directive. They may also lay down provisions for parameters other than those set in the Directive.

The Directive requires the establishment of programmes to reduce pollution and to ensure that designated waters conform to the prescribed standards.

The Directive will be integrated into the Water Framework Directive and thus will be repealed in December 2013.

## **3.2 DISCHARGES OF DANGEROUS SUBSTANCES**

### **Dangerous Substances Directive**

The Directive on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community (76/464/EEC) (Dangerous Substances Directive) sets a framework for the elimination or reduction of pollution of inland, coastal and territorial waters by particular dangerous substances. Subsequent daughter Directives set standards for particular substances. The Directive also intends to ensure consistent implementation of various international Conventions and to reduce distortion to conditions of competition.

An Annex to the Directive contains two lists of families and groups of dangerous substances. List I (sometimes referred to as the “Black List”) includes substances selected on the basis of their toxicity, persistence and bioaccumulation. List II (sometimes referred to as the “Grey List”) includes substances regarded as possibly less dangerous, but which nevertheless have a harmful effect on the aquatic environment.

Member States are required to draw up authorisation limits for emissions of substances on both lists. In the case of List I the limit values were to be at least equivalent to those adopted at European level with the aim of eliminating pollution by these substances. With regard to List II substances, the Member States were to set up pollution programmes with the aim of reducing pollution from these emissions.

For the purpose of the Directive, any List I substance is to be treated as a List II substance until a daughter Directive is established to set limit values for the substance.

Directive [2006/11/EC](#) is a consolidating Directive bringing together the original Directive (76/464/EEC) and the daughter Directives into a single text and repealing Directive 76/464/EEC.

The consolidating Directive will be integrated into the Water Framework Directive and thus will be repealed in December 2013.

---

### **Dangerous Substances Directive Daughter Directives**

To date, 17 substances have been put into List I of the Dangerous Substances Directive by seven daughter Directives:

- Directive [82/176/EEC](#) – limit values for mercury discharged by the chlor-alkali electrolysis industry;
- Directive [84/156/EEC](#) – limit values for mercury by sectors other than the chlor-alkali industry;
- Directive [83/513/EEC](#) – limit values for cadmium discharges;
- Directive [84/491/EEC](#) – limit values for hexachlorocyclohexane;
- Directive [86/280/EEC](#) - limit values for DDT, carbon tetrachloride and pentachlorophenol;
- Directive [88/347/EEC](#) – limit values for aldrin, dieldrin, endrin, isodrin, hexachlorobenzene, hexachlorobutadiene, and chloroform; and
- Directive [90/415/EEC](#) – limit values for 1, 2-dichloroethane, trichloroethylene, perchloroethylene and trichlorobenzene.

### **Groundwater Directive**

The Directive on the protection of groundwater against pollution caused by certain dangerous substances (80/68/EEC) (Groundwater Directive) aims to prevent the pollution of groundwater from both direct and indirect discharges of dangerous substances.

An Annex to the Directive contains two lists of families and groups of substances. List I contains 8 groups of substances selected on the basis of their toxicity, persistence and bioaccumulation. List II contains 7 groups of substances, one including 20 specific metals, selected as they have a risk of toxicity, persistence and bioaccumulation lower than List I substances, but could have a harmful effect on groundwater.

Member States must take the necessary steps to prevent the introduction into groundwater of List I substances and limit the introduction of List II substances so as to avoid pollution.

The Directive will be integrated into the Water Framework Directive and thus will be repealed in December 2013.

### **Protection of Groundwater Directive**

The Directive on the protection of groundwater against pollution and deterioration (2006/118/EC) (Protection of Groundwater Directive) establishes a regime that sets quality standards for groundwater and introduces measures to prevent or limit inputs of pollutants into groundwater. The Directive establishes quality criteria that takes account of local characteristics and allows for further improvements to be made based on monitoring data and new scientific knowledge.

The Directive complements the Water Framework Directive (WFD) in that it requires:

- Groundwater quality standards to be established by the end of 2008;

- Pollution trend studies to be carried out by using existing data and data which is mandatory under the WFD;
- Pollution trends to be reversed so that environmental objectives are achieved by 2015 by using the measures set out in the WFD;
- Measures to prevent or limit inputs of pollutants into groundwater to be operational so that WFD environmental objectives can be achieved by 2015;
- Reviews of technical provisions of the Directive to be carried out in 2013 and every six years thereafter; and
- Compliance with good chemical status criteria (based on EU standards of nitrates and pesticides and on threshold values established by Member States).

The Directive will be integrated into the Water Framework Directive and thus will be repealed in December 2013.

#### **Asbestos Directive**

The Directive on the prevention and reduction of environmental pollution by asbestos (87/217/EEC) (Asbestos Directive) lays down measures for the prevention and reduction of environmental pollution by asbestos from all significant point sources and sets limits for the emissions of asbestos into the sea and aquatic environment.

Member States are required to take the measures necessary to ensure that asbestos emissions into the air, asbestos discharges into the aquatic environment, and solid asbestos waste are, as far as reasonably practicable, reduced at source and prevented. In the case of the use of asbestos, these measures should entail using the best available technology not entailing excessive cost, including where appropriate recycling or treatment.

#### **Nitrates Directive**

The Directive concerning the protection of waters against pollution caused by nitrates from agricultural sources (91/676/EEC) (Nitrates Directive) seeks to reduce or prevent the pollution of water caused by the application and storage of inorganic fertilizer and manure on farmland. It is intended both to safeguard drinking water supplies and to prevent wider ecological damage in the form of the eutrophication of freshwater and marine waters generally.

The Directive provides for the monitoring of nitrate concentrations in fresh waters and the designation by Member States of vulnerable zones which have been, or are likely to be affected by pollution from nitrates. These vulnerable zones are those areas which drain into waters affected by pollution and contribute to the pollution.

Member States are required to develop Action Programmes relating to vulnerable zones covering issues such as periods and limits on fertilizer and livestock manure application; manure storage and a code of good agricultural practice.

---

### [Convention of the protection and use of transboundary watercourses and lakes \(Helsinki Convention\)](#)

The Decision on the conclusion, on behalf of the Community, of the Convention on the protection and use of transboundary watercourses and international lakes (95/308/EC) approves the Helsinki Convention on behalf of the Community.

The purpose of the Convention, drawn up by the United Nations Economic Commission for Europe (UNECE), is to establish a framework for bilateral or multilateral cooperation to protect the aquatic environment, to prevent and control the pollution of transboundary watercourses and to ensure the rational use of water resources in the UNECE member countries. The Convention entered into force on 6 October 1996.

### [Plant Protection Products Directive](#)

The Directive concerning the placing of plant protection products on the market (91/414/EEC) (Plant Protection Products Directive) regulates plant protection products in commercial form. It introduces a Community system for the authorisation and placing on the market of plant protection products, i.e. pesticides and control of active substances intended for use for the protection of plants.

The Directive introduces a “positive” Community list of active ingredients, authorised under a new procedure. Active ingredients can only be included in the list if they meet certain conditions, particularly concerning the likely effects of residues on human health and the environment, particularly contamination of water including drinking water and groundwater.

Member States are to prohibit the marketing and use within their territory of pesticides which have not been authorised in accordance with the Directive. Controlled research applications are the only exception. Member States may not impede the production, storage or movement of a product authorised in another Member State and intended for use in another Member State, even though they may not have authorised it for use in their own territory. Active ingredients which are not classified, packaged and labelled in accordance with Directive 1999/45/EC may not be marketed. Member States are to prescribe that pesticides ‘must be used properly’. Proper use will include compliance with any conditions attached to the product and specified on the label and the application of ‘the principles of good plant protection practice, as well as, whenever possible, the principles of integrated control’.

### [Urban Waste-Water Treatment Directive](#)

The Directive concerning urban waste water treatment (91/271/EEC) (Urban Waste Water Treatment Directive) seeks to reduce the pollution of freshwater, estuarial and coastal waters by domestic sewage, industrial waste water and rainwater run-off – collectively, ‘urban waste water’.

The Directive sets minimum standards, and timetables for their achievement, for the collection, treatment and discharge of urban waste water. It introduces controls over the disposal of sewage sludge, and requires the ending of sewage sludge dumping at sea.

Member States are required to ensure that all waste waters are properly collected and subjected to secondary or equivalent treatment before being discharged into estuaries or coastal waters. Higher, or tertiary, standards of treatment are required for discharges to particularly sensitive

areas. Such areas are to be determined by Member States on the basis of criteria set out in the Directive's Annex. They include waters subject to eutrophication (in which case significant reductions of nitrates and/or phosphates are required); surface waters with high nitrate levels intended for the abstraction of drinking water; and other waters where higher treatment standards are necessary to fulfil the requirements of other Community Directives. Discharges in such sensitive areas are to be subject to more stringent treatment by the end of 1998.

The Directive sets emission limit values and minimum percentage reductions that systems of secondary and tertiary treatment must meet, and sets out reference methods for monitoring and evaluating the results. It also sets emission limits for nitrogen and phosphorus discharges from treatment plants to designated sensitive areas. Directive [98/15/EC](#) clarifies the discharge requirements for nitrogen and phosphates.

### **Priority Substances Decision**

The Decision establishing the list of priority substances in the field of water policy and amending Directive 2000/60/EC ([2455/2001/EC](#)) (Priority Substances Directive) establishes a list of priority substances which forms Annex X of the Water Framework Directive. The priority list of 33 substances is derived from an initial survey of other 'lists', including those in the Dangerous Substances Directive and the OSPAR and HELCOM Conventions, etc. To determine which substances were a priority, a procedure termed COMMPS (Combined Monitoring-based and Modelling-based Priority Setting) was elaborated. This led to the development of the list which aims at tackling eco-toxicological effects, bio-accumulation and health impacts. The final priority list contains four metals and their compounds (cadmium, lead, mercury and tin). The remainder are toxic organic substances (e.g. certain pesticides, product contaminants, etc).

The Decision enables the European Commission to bring forward proposals for specific measures to reduce pollution from the named substances.

The proposed Directive on environmental quality standards in the field of water policy ([COM\(2006\)397](#)) would amend the Water Framework Directive, taking forward action on priority substances (Annex X of the Water Framework Directive). The proposal sets concentration limits for 41 substances, including those 33 identified previously as priority substances and a few others covered by daughter Directives of the Dangerous Substances Directive. Thirteen of the substances are also specified as 'priority hazardous substances' to which particularly strict limit values will apply because they are toxic, persist in the environment without breaking down, and can bioaccumulate. Member States will have to achieve the proposed limits for all priority substances by 2015 and cease discharges and emissions of priority hazardous substances into water by 2025. Member States will be required to include the measures needed to achieve the agreed standards in their River Basin Management Plans, which must be prepared under the Water Framework Directive by 2009.

---

### 3.3 MARINE POLLUTION

#### [Convention for the prevention of marine pollution from land-based sources \(Paris Convention\)](#)

The Decision concluding the Convention for the prevention of marine pollution from land-based sources (75/437/EEC) concludes the Paris Convention on behalf of the Community.

The Convention was drawn up in 1974 to prevent pollution of the North East Atlantic including the North Sea from land-based sources. It provides for elimination of pollution from substances listed in Part I of an Annex and to limit strictly pollution from substances listed in Part II. The scope of the Convention was extended in 1986 to cover atmospheric inputs to the sea.

This Convention was replaced by the Convention on the protection of the marine environment of the North East Atlantic which entered into force in 1998.

#### [Convention on the protection of the environment of the North-East Atlantic \(OSPAR Convention\)](#)

The Decision on the conclusion of the Convention for the protection of the North-East Atlantic (98/249/EC) approves the OSPAR Convention on behalf of the Community.

The Convention was signed in Paris in September 1992 by the EC and several Member States including the UK. It entered into force in 1998, thereby replacing the 1974 Paris Convention and the 1972 Oslo Convention.

Contracting Parties to the OSPAR Convention met for the first time in Sintra in July 1998 where a new Annex V on the Protection and Conservation of the Eco-systems and Biological Diversity was adopted. The Annex V entered into force in 2001, following approval of seven Parties. Five Recommendations were also adopted in Sintra, including recommendations relating to the non-ferrous metal industry and to aluminium electrolysis plants. These are automatically binding, unless specifically rejected by a Party.

### 3.4 RELATED MATTERS

#### [Integrated Pollution Prevention and Control Directive](#)

The Directive concerning integrated pollution prevention and control (IPPC) Directive (96/61/EC) aims to modify and supplement existing legislation concerning the prevention and control of pollution from industrial plants. This is achieved by preventing or reducing emissions to air, water, and land, including measures concerning waste, thus an integrated approach to pollution prevention so as to preserve and improve the quality of the environment, protect human health and ensure a rational utilisation of natural resources.

The Directive applies to six categories of industry: energy; production and processing of metals; minerals; chemicals; waste management; and 'other'. The 'other' group includes facilities operating in the areas of pulp and paper production, textile treatment, tanning, food production, and the intensive rearing of poultry and pigs. Within each category, the scope of the Directive is defined further either by relation to the nature of the process or product (e.g. refining of oil) or the size of the operation (e.g. production of ferrous metal above 20 tonnes per day).

Each facility covered by the Directive must be made subject to authorization through permitting. Following the Directive's adoption in September 1996, the requirement to apply its authorization requirements to new plants must be given effect at the latest by 30 October 1999. The majority of the Directive's provisions will have to be applied to existing plants within eight years thereafter.

### **Environmental Impact Assessment Directive**

The Directive on the assessment of the effects of certain public and private projects on the environment (85/337/EEC) (Environmental Impact Assessment Directive) requires an Environmental Impact Assessment (EIA) for new projects which are judged to have a significant impact on the environment.

The effects on the following four factors are to be identified, described and assessed, as appropriate, in the EIA:

- Human beings, fauna and flora;
- Soil, water, air, climate and the landscape;
- Material assets and the cultural heritage; and
- The interaction between these factors.

The results must be made public and views of the public taken into account in decisions.

### **Strategic Environmental Assessment Directive**

The Directive on the assessment of the effects of certain plans and programmes on the environment (2001/42/EC) (Strategic Environmental Assessment Directive) aims to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into decision making, by ensuring that an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.

Strategic environmental assessment (SEA) is the formal, systematic evaluation of the likely significant environmental effects of implementing a plan or programme before a decision is made to adopt the plan or programme.

The Directive sets out the standard procedures for undertaking an environmental assessment, and complements the Environmental Impact Assessment Directive ([85/337/EEC](#)).

### **Access to information Directive**

Access to environmental information is considered a key element in securing improved environmental standards, alongside public participation in decision-making and access to justice. The Directive on the freedom of access to information on the environment ([90/313/EEC](#)) for the first time required Member States' public authorities holding information on the environment to make such information available, subject to certain exclusions. The Directive on public access to environmental information and repealing Directive 90/313/EEC ([2003/4/EC](#)) (Access to information Directive), which repeals and replaces Directive 90/313/EEC, strengthens access to environmental information provisions further by requiring 'the widest possible systematic availability and dissemination to the public' of such information. It establishes the 'right' to access

rather than the 'freedom' of access, and emphasizes the role of information technology in improving access.

The Directive aims are to guarantee the right of access to environmental information held by or for public authorities and to set out the basic terms and conditions of, and practical arrangements for, its exercise; and to ensure that, as a matter of course, environmental information is progressively made available and disseminated to the public in order to achieve the widest possible systematic availability and dissemination to the public of environmental information.

### **Standardised Reporting Directive**

The Directive standardizing and rationalizing reports on the implementation of certain Directives relating to the environment (91/692/EEC) (Standardised Reporting Directive) sets out provisions on the transmission of information and reports concerning various Directives relating to the protection and quality of the aquatic environment from Member States to the Commission. The reporting requirements specified in many water protection Directives are modified by this Directive.

The objective is to harmonise and improve the reporting requirements included in the following Directives:

- Drinking Water Directive (80/778/EEC);
- Groundwater Directive (80/68/EEC);
- Surface Water for Drinking Water Directive (75/440/EEC);
- Measurement Methods Directive (79/869/EEC);
- Dangerous Substances Directive (76/464/EEC) and its daughter Directives (82/176/EEC; 83/513/EEC; 84/156/EEC; 84/491/EEC; and 86/280/EEC);
- Disposal of Waste from the Titanium Dioxide Industry Directive(78/176/EEC);
- Freshwater Fish Directive (78/659/EEC); and
- Shellfish Water Directive (79/923/EEC).

National reports are to be drawn up on the basis of a questionnaire or outline drafted by the Commission, assisted by a Committee of Member States representatives. Outline questionnaires for 14 Directives on water were first adopted in Commission Decision [92/446/EEC](#). The questionnaires were further amended by Commission Decision [95/337/EEC](#).

### **Hazardous Waste Directive**

The Directive on hazardous waste (91/689/EEC) (Hazardous Waste Directive) as amended by Directive [94/31/EC](#) lays down controls for the management of operations involving hazardous waste.

The Directive requires the competent authority to draw up hazardous waste management plans, which include provisions to prevent water pollution, e.g. through the permitting arrangements.

### **Sewage Sludge Directive**

The purpose of Directive on the protection of the environment, and in particular of the soil when sewage sludge is used in agriculture (86/278/EEC) is two fold. Firstly to regulate the application of sewage sludge to land in order to avoid harmful effects on soil, vegetation, animals and human beings; and secondly, to encourage the correct use of sewage sludge on land.

The Directive gives limit values for heavy metals in both soil to which sludge is applied and for the actual sludge.

Sewage sludge application is prohibited where the concentration of one or more heavy metals in the soil already exceeds the limits laid down in the Directive. The use of sludge must also be regulated to ensure that heavy metal accumulation in the soil does not exceed these limits.

### **Landfill Directive**

The Directive on the landfill of waste (99/31/EC) (Landfill Directive) aims to tackle emissions of methane by limiting the amount of biodegradable waste going to landfill. It also aims to encourage the prevention, recycling and recovery of waste by limiting its final disposal through landfill. The Directive intends to safeguard the health of people and the environment by ensuring the proper licensing, monitoring and aftercare of new and existing landfill sites. In so doing, the Directive aims to limit the shipment of waste between Member States by ensuring that adequate standards are applied to landfill in every country, thereby preventing poor control in certain Member States leading to the cheap dumping of waste. In addition, by requiring the charges levied by operators to reflect the continuing costs of landfill, including clean up and aftercare, the Directive seeks to make other, apparently more expensive, methods of waste disposal more attractive to waste producers.

The Directive regulates operational and technical requirements on waste facilities and landfills, to provide for measures, procedures to prevent or reduce as far as possible the negative effects on the environment, particularly the pollution of surface water and groundwaters. Annex I requires that landfills are designed so as to meet the necessary condition to prevent the pollution of soil, surface water or groundwater.

### **Waste Incineration Directive**

The Directive on incineration of waste (2000/76/EC) (Waste Incineration Directive) aims to reduce, as far as possible, the negative effects on the environment, in particular the pollution of air, soil, surface and groundwater, and the resulting risks to human health, from the incineration and co-incineration of many types of waste including municipal and hazardous waste.

The Directive is based on the premise that the harmfulness of the emissions does not depend on the source, but is a property of the substances emitted and sets emission limit values for these. The Directive also controls releases to water, specifically waste water from the cleaning of exhaust gases.

### **Large Combustion Plants Directive**

The Directive on the limitation of emissions of certain pollutants into the air from large combustion plants (2001/80/EC) (Large Combustion Plants Directive) applies to combustion plants with a thermal output of greater than 50 MW.

The Directive aims to reduce acidification, ground level ozone and particles throughout Europe by controlling emissions of sulphur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), and dust (particulate matter (PM)) from large combustion plants (LCPs). These plants include power stations, petroleum refineries, steelworks and other industrial processes running on solid, liquid or gaseous fuel.

Member States must either take appropriate measures to ensure that all licenses for existing plants contain conditions that comply with the emission limit values for SO<sub>2</sub>, NO<sub>x</sub> and dust set in the Directive's Annex for new plants or alternatively they can be subjected to a national emission reduction plan.

### **Titanium Dioxide Directive**

The Directive on waste from the titanium dioxide industry (78/176/EEC) (Titanium Dioxide Directive) aims to prevent and progressively reduce pollution caused by waste from the titanium dioxide industry.

The Directive places duties on Member States to ensure that titanium dioxide waste is disposed of without endangering human health or harming the environment and the encourage recycling. All discharge, dumping, storage and injection of waste must be subjected to prior authorization by the competent authority. Member States must take steps to remedy unsatisfactory situations that may arise, if necessary by suspending disposal. Member States must send to the Commission programmes for the progressive reduction and eventual elimination of pollution.

The Directive on procedures for the surveillance and monitoring of environments concerned by waste from the titanium dioxide industry ([82/883/EEC](#)) (Titanium Dioxide Monitoring Directive) fulfils the obligation placed on the Commission by Directive 78/176 to propose procedures for surveillance and monitoring. The Directive lays down in five Annexes the steps to be taken in monitoring air, salt water, fresh water, storage and dumping on land, and injection into soil.

The Directive on procedures for harmonizing the programmes for the reduction and eventual elimination of pollution caused by waste from the titanium dioxide industry ([92/112/EEC](#)) (Titanium Dioxide Harmonizing Directive) lays down procedures for harmonizing programmes for the reduction and elimination of pollution from existing titanium dioxide plants. The Directive provided for bans on the dumping and discharge of the most polluting forms of waste from the manufacture of titanium dioxide, including solid and strong acid wastes. It also put forward discharge reduction programmes for weaker acids and treatment wastes.

### **Wild Birds Directive**

The Directive on the conservation of wild birds (79/409/EEC) (Wild Bird Directive) aims to provide long-term protection and conservation of all bird species naturally living in the wild within the EU. The Directive seeks to control the hunting and killing of wild birds and protect their eggs and nests. It also requires the provision of a sufficient diversity and area of habitats to maintain the population of all species.

A general duty is placed on Member States to maintain the population of all 'species of naturally occurring birds in the wild state' in the European territory 'at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements'.

Member States are to preserve, maintain or re-establish a sufficient diversity and area of habitats for birds. This is to be done primarily by creating protected areas, managing habitats both inside and outside protected areas, re-establishing destroyed biotopes and creating new ones.

Measures include the designation of Special Protection Areas (SPAs) for Annex 1 listed species, and for internationally important concentrations of migratory waterfowl. SPAs contribute to the EU wide network of Natura 2000 sites. SPAs are subject to the same legal protection and provisions as SACs designated under the Habitats Directive (see below), and are included as Protected Areas under the Water Framework Directive.

Satisfactory water quality and hydrological regime is an essential factor in such areas; winter flooding is often an important feature of these sites. Many SPAs occur in transitional waters.

### **Habitats Directive**

The Directive on the conservation of natural habitats and of wild fauna and flora (92/43/EEC) (Habitats Directive) aims to contribute towards the maintenance of biodiversity within the European territory of the Member States through the conservation of natural habitats and of wild fauna and flora. Many habitat types in Europe have deteriorated and a growing number of species have become threatened or increasingly rare. The Directive aims to maintain and restore Annex listed threatened habitats and species, which are of Community interest, at a favourable conservation status through the designation, conservation, and appropriate management of a network of Special Areas of Conservation (SACs) throughout Europe. These sites contribute to the Natura 2000 network, and are included as Protected Areas under the Water Framework Directive.

Plans or projects which could adversely affect Natura 2000 sites must be subject to an appropriate assessment. DG Environment provides useful guidance on the Assessment of Plans and Projects Significantly Affecting [Natura 2000](#) sites, and on the management of sites.

Most Natura 2000 sites in Ireland include water dependent habitats and species as qualifying interests. Satisfactory water quality and hydrological regime are essential factors in such areas. Many water dependent habitats and species require seasonal variation in ground and/or surface water level, and some require higher water quality than Salmonid and Drinking Water quality standards.

### **Testing Existing Chemicals Regulation**

The Regulation on the evaluation and control of the risks of existing substances (EEC793/93) (Testing Existing Chemicals Regulation) requires manufacturers or importers who make or import more than certain quantities of 'existing' substances (including pesticides) to send the Commission existing data relevant for an evaluation of risk. This data is used to draw up priority lists of substances which need to be examined in more detail. These are then assessed to see whether they pose a particular risk to man or the environment, the work being divided between the Member States. If necessary, proposals can then be made for restrictions on marketing and use.

Article 16 of the Water Framework Directive specifically requires that, in drawing up strategies to deal with water pollution, the Commission must take into account risk assessments of pollutants carried out under the Regulation.

The Directive on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances ([67/548/EEC](#)) (Testing New Chemicals Directive) requires the testing and assessment of substances in relation to their risks to human health and the environment before marketing in volumes greater than 10 kg.

The Directive concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations ([1999/45/EC](#)) (Dangerous Preparations Directive) relates to the classifying, packaging and labelling of dangerous preparations.

The Directive on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations ([76/769/EEC](#)) (Restrictions on Marketing and use Directive) provides the rules and procedures relating to restrictions on marketing and use of certain dangerous substances and preparations.

#### **[Major Accident Hazards \(COMAH\) Directive](#)**

The Directive on the control of major-accident hazards involving dangerous substances (96/82/EC) (COMAH Directive) as amended ([2003/105/EC](#)) aims to prevent major accidents which involve dangerous substances. It requires operators to develop major-accident prevention policies and to provide safety reports outlining how they intend to manage and handle dangerous substances.

#### **[Biocides Directive](#)**

The Directive concerning the placing of biocidal products on the market (Biocides Directive) (98/8/EC) regulates biocidal products within the Member States and establishes a positive list of active substances which may be used in biocidal products. Member States must ensure that the biocidal products have no unacceptable effects themselves or as a result of their residues, amongst other things, on surface water and groundwater.

#### **[Proposed Directive on Flood Management](#)**

Proposed Directive on the assessment and management of floods. This proposal aims to reduce and manage flood-related risks to human health, the environment, infrastructure and property, in the context of likely increases in the scale and frequency of floods as a result of climate change, and inappropriate river management and construction in flood risk areas.

## 4. WATER FRAMEWORK DIRECTIVE

### 4.1 INTRODUCTION

The ever increasing demands being placed by society on water led to an overhaul of the way in which water is managed in Europe. [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 policy](#) (Water Framework Directive (WFD)), which entered into force in December 2000, reforms EU water legislation by introducing a new and innovative model for water management. The essence of the WFD is an approach to water management that focuses on both quality and quantitative status consistent with a healthy ecosystem. The Directive recognises that water is not just a commercial resource but, rather, a heritage, which must be protected, defended and maintained in a pristine state.

The purpose of the Directive is to establish a framework for the protection of all waters (inland surface waters, transitional waters, coastal waters and groundwater) in order to prevent and reduce pollution, protect the aquatic environment, improve the status of aquatic and water dependent ecosystems, promote sustainable water use and mitigate the effects of floods and droughts. The Directive sets out to achieve its aims through the following main objectives:

- Expanding the scope of water protection to all waters, surface waters and groundwater;
- Achieving “Good Status” for all waters by 2015 and maintaining “High Status” where it exists;
- Managing water based on river basins, with a combined approach of emission limit values and quality standards;
- Getting the price of water right;
- Getting citizens more closely involved; and
- Streamlining legislation.

Overall, the WFD aims to achieve good status for all waters by 2015.

### 4.2 KEY TASKS OF WATER FRAMEWORK DIRECTIVE

The Directive, through its various articles, sets out key tasks which Member States must follow in order to implement the framework. The main tasks are as follows:

Date	WFD Articles	Key tasks
2003	Article 24	Implementation of the WFD on a national level
2003	Article 3	Establishing of River Basin Districts as the fundamental unit for applying and co-ordinating the Directive's provisions
2004	Articles 4, 5 & 6	Characterisation of water bodies and agreeing key water management issues
2006	Article 8	Establishing and maintaining appropriate Monitoring

Date	WFD Articles	Key tasks
		Programme. Such monitoring must cover both surface and groundwater.
2009	Article 11	Designing Programmes of Measures and developing River Basin Management Plans for their implementation
2010	Article 9	Water pricing policies that take into account the principle of cost recovery for water services ongoing
	Article 14	Public Information and consultation

### 4.3 IMPLEMENTATION

Member States are obliged to introduce laws, regulations and administrative provisions necessary to comply with this Directive by 22 December 2003.

Over the life span of the Directive a number of existing water quality Directives will be repealed as follows:

Seven years after the entry into force of the Directive, the following legislation will be repealed: @

- Surface Water for Drinking Directive (75/440/EEC);
- Exchange of Information on the Quality of Surface Water Decision (77/795/EEC);
- Surface Water for Drinking Measuring Methods Directive (79/869/EEC);

Thirteen years after the entry into force of the Directive, the following legislation will be repealed:

- Freshwater Fish Directive (78/659/EEC) as amended by Directive 2006/44/EC;
- Shellfish Water Directive (79/923/EEC);
- Groundwater Directive (80/68/EEC);
- Dangerous Substances Directive (76/464/EEC), with the exception of Article 6, repealed on the date of entry into force of the WFD Directive.

The repeal of these Directives will be phased to ensure that at least the same level of protection is afforded to waters at all times.

### 4.4 RIVER BASIN DISTRICTS

A key feature to the WFD is the adoption of River Basin Districts (RBD) as the model for future management of water. This approach recognises that water does not respect political or administrative boundaries and therefore can only be managed sustainably when looked at in its natural physical and hydrological boundaries.

At the core of the Directive is the requirement to produce a management plan for each RBD setting out how the environmental objectives are to be met. This river basin district management plan must be based on a detailed analysis of the pressures on water bodies within the river basin and an assessment of their impact. Information gathered allows a comprehensive programme of

measures to be drawn up, tailored to the circumstances in the river basin district and in particular to target improvements and monitoring effort on those water bodies most at risk of failing to meet their targets. Targets for water bodies, catchments and sub-catchments must be set with regard to the most sensitive receptors present, in terms of water quality and hydrological requirements.

The Western River Basin District is one of eight river basin districts on the island of Ireland and it includes parts of Clare, Galway, Galway City, Leitrim, Mayo, Roscommon and Sligo. It extends over some 12,000 km<sup>2</sup>, with over 5,600 lakes, 14,200 km of rivers, 105 groundwater bodies and an extensive marine and estuarine area.

The WFD, and therefore each river basin management plan, seeks the co-ordination of objectives to achieve at least “good status” for all waters by 2015. Good status exists when both the ecological and chemical status are good.

The key milestones for the implementation of the WFD in Ireland (as per the Irish Legislation) are as follows:

Key Date	Key tasks
22 <sup>nd</sup> December 2003	Implementation of the WFD on a National level
22 <sup>nd</sup> June 2004	Establishing of River Basin Districts as the fundamental unit for applying and co-ordinating the Directive's provisions
22 <sup>nd</sup> December 2004	Characterisation of River Basin Districts.
22 <sup>nd</sup> June 2006	Develop Classification systems for surface water and groundwater
22 <sup>nd</sup> June 2006	Establishing and maintaining Monitoring Programmes - Such monitoring must cover both surface and groundwater and must be operational by 22 <sup>nd</sup> December 2006.
22 <sup>nd</sup> June 2006	Prepare and publish a work Programme and Timetable for the production of River Basin Management Plans.
22 <sup>nd</sup> June 2007	Prepare and publish an overview of the significant water management issues identified in each river basin.
22 <sup>nd</sup> June 2008	Prepare and publish draft River Basin Management Plans and allow six months for written comment.
22 <sup>nd</sup> June 2008	Publish a draft Programmes of Measures for comment by any person for a six month period.
22 <sup>nd</sup> June 2009	Establish environmental objectives and final Programmes of Measures and developing River Basin Management Plans for their implementation

22 <sup>nd</sup> June 2009	Making of River Basin Management Plans
2010	Water Pricing Policies that take into account the principle of 'cost recovery' for water services
2012	Latest date for making operational the Programme of Measures
2015	Meet environmental objectives of first RBMP and adopt the Second RBMP

#### 4.5 CHARACTERISATION

Each RBD is to be characterised by:

- An analysis of its characteristics;
- A review of the impact of human activity on the status of surface waters and on groundwater; and
- An economic analysis of water use.

The analysis of characteristics requires the identification of the location and boundaries of the surface water bodies. All surface waters are identified as falling within either one of the following surface water categories - rivers, lakes, transitional waters or coastal waters - or as artificial surface water bodies or heavily modified surface water bodies.

In this context:

- Surface Water means inland waters, except groundwater; transitional waters and coastal waters, except in respect of chemical status for which it shall include territorial waters.
- Transitional Waters are bodies of surface water in the vicinity of river mouths which are partly saline in character as a result of their proximity to coastal waters but which are substantially influenced by freshwater.

The main elements for characterisation of **groundwaters** are:

- Location of boundaries;
- Identification of anthropogenic pressures (pollution/ abstraction/ artificial recharge);
- General character of the overlying strata in the catchment area from which the groundwater body receives its recharge; and
- Identification of directly dependent surface water ecosystems or terrestrial ecosystems.

There are also separate methodologies for the characterisation of Coastal and Transitional waters.

## 4.6 MONITORING

Member States are to ensure the establishment of programmes for the monitoring of water status in order to establish a coherent and comprehensive overview of water status within each RBD. The objectives of such monitoring programmes are as follows:

- Provide comprehensive data on the ecological and chemical status;
- Permit the classification of status of water bodies; and
- Design based on the characterisation and impact assessment carried out for the RBD.

The WFD requires an extensive monitoring system of water quality and quantity. The monitoring is divided into three categories:

- Surveillance monitoring;
- Operational monitoring; and
- Investigative monitoring.

## 4.7 PROGRAMME OF MEASURES

Central to each RBD management plan is the programme of measures. This must take account of the results and analysis from the characterisation of the river basin in order to achieve the overall environmental objectives (Article 4) of the WFD that is to achieve “good water status” for the entire RBD. The measures will be composed of basic and supplementary measures. The required basic measures are derived from existing legislation. Supplementary measures provide for additional protection or improvement of waters in order to achieve the required environmental objectives. The WFD outlines a non-exclusive list of Supplementary measure, which include:

- Legislative instruments;
- Administrative or economic instruments;
- Codes of good practice;
- Recreation, rehabilitation or restoration projects; and
- Educational projects, etc.

## 4.8 WATER PRICING POLICIES

Member States are required to take account of the principle of recovery of costs (Article 9) of water services, including environmental and resource costs, having regard to the economic analysis conducted according to Annex III, and in accordance in particular with the polluter pays principle.

The aim of water pricing is to encourage more sustainable use of water. The water pricing systems are to be developed in a manner that is sensitive to the physical, social, institutional and political setting as well as the geographic and climatic conditions in each RBD.

#### **4.9 PUBLIC INFORMATION AND CONSULTATION**

The Directive (Article 14) encourages all with an interest to actively participate in water management activities, in particular in the production, review and updating of the RBD management plans. It is a requirement that the timetable and work programme, interim overview of significant management issue and draft RBD management plans, are published and made available for comments by the public.

---

## 5. IRISH LEGISLATION

---

### 5.1 INTRODUCTION

The origins of the vast majority of water quality standards are the various Directives of the European Communities which specify the quality required of waters for different uses. The actual standards in force are the Regulations made by the Minister which give legal effect to the European Directives. Regulations (which may contain stricter standards than the Directives) take precedence over the Directives.

The primary responsibility for monitoring of surface waters for compliance with beneficial use standards is devolved to Local Authorities. The EPA assists the Local Authorities in relation to laboratory facilities for sampling and analysis in some areas and co-ordinates the reporting of monitoring results on a national basis.

In the context of the National Water Framework Directive Monitoring Programme the EPA have responsibility assigned to them to undertake biological, morphological, priority substances and priority pollutants monitoring for surface waters (rivers, lakes and estuarine waters) and for implementation of the groundwater monitoring component. Marine waters will be monitored by the Marine Institute and fish monitoring will be undertaken by the Central Fisheries Board. Flow and level recording will be undertaken by the EPA and the Office of Public Works. The EPA has overall responsibility for collating all national monitoring data and reporting to the EU.

The legislative framework regarding water pollution control and water quality management is provided by the Local Government Water Pollution Acts, 1977 and 1990 together with associated Regulations. These provide wide powers for the protection of water of all kinds including inland waters, aquifers and tidal waters. Statutory powers under the above rest principally with the local and sanitary authorities.

Irish water pollution legislation is firmly based on the principle of the polluter pays. In particular, it provides that, by order of the courts following application by the local authority or any person, a polluter may be required to mitigate or remedy the effects of pollution.

The legislation is considered in three main categories:

- Water quality oriented legislation;
- Emission control oriented legislation; and
- Water related legislation.

The latter includes legislation whose purposes may be set out for other environmental factors such as, waste management, protection of soils etc, but must also have regard towards the protection of water.

In addition legislation has been adopted to implement the Water Framework Directive.

## 5.2 WATER QUALITY ORIENTED LEGISLATION

### 5.2.1 European Communities (Water Policy) Regulations, 2003

#### [EC \(Water Policy \) Regulations, 2003](#)

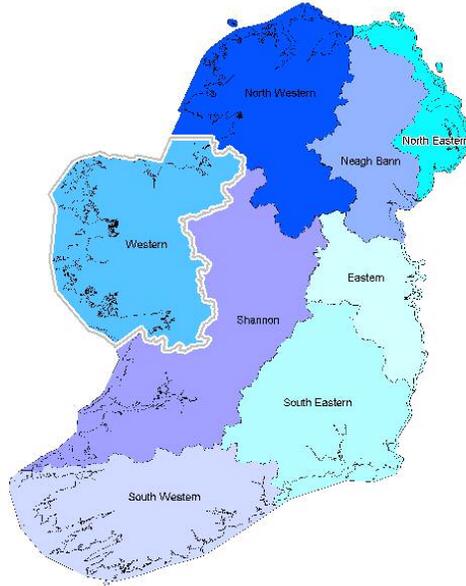
SI 722 of 2003

The Water Framework Directive was transposed into Irish Legislation by the European Communities (Water Policy) Regulations 2003, (Statutory Instrument 722) on 22nd December 2003. The legislation assigns specific and new functions mainly to the Minister, the EPA and local authorities. It provides for participation by interested parties and their facilitation in this process by the Local authorities.

In brief the legislation provides for the

- protection of the status of all waters
- establishment of “river basin districts” (RBDs) (section 5),

Eight RBDs have being established on the island of Ireland; North and South (see Map 1.1). The delineation of RBDs has been developed in consultation with authorities in Northern Ireland and interested parties generally. The Regulations identify the seven RBDs established in relation to areas in Ireland, including cross-border areas. One further RBD is wholly internal to Northern Ireland.



Map 1-1 – River Basin Districts on the island of Ireland

- Establishment of Competent Authorities

The Legislation specifically identifies the EPA as the competent authority for coordination and preparation of National reports for the EU.

Section 6 identifies the relevant local authorities acting jointly for RBMP and Programme of Measures (POM) and also identifies the co-ordinating authority for each individual basin district responsible for co-ordination of actions by all relevant public authorities for water quality management in an RBD including cross-border RBDs.

The designated co-ordinating local authorities for each river basin in the Irish Republic are provided in Table 1.2

**Table 1.2 Coordinating Local Authorities**

River Basin District	Co-ordinating local authority
Eastern	Dublin City Council
South Eastern	Carlow County Council
South Western	Cork County Council
Western	Galway County Council
Shannon (International)	Limerick County Council
North Western (International)	Donegal County Council
Neagh Bann (International)	Monaghan County Council

- characterisation of each RBD (Section 7)

In accordance with Sections 7(2) and 7(3) each RBD submitted

- (a) An analysis of its characteristics
- (b) A review of the impact of human activity on the status of surface waters and of groundwater, and
- (c) An economic analysis of water use

The designated competent authorities in Ireland prepared a single combined National Summary Characterisation Report for the purpose of reporting by the statutory deadline of 22nd December 2004. That report was intended to provide an opportunity for public and stakeholder comment prior to completion and submission to the European Commission on 22nd March 2005 by the Environmental Protection Agency. The accompanying maps and background documents referred to in this report are available on the [www.wfdireland.ie](http://www.wfdireland.ie) website Individual RBD Characterisation Reports are available on each RBD website (e.g. [www.westernrbd.ie](http://www.westernrbd.ie) )

- develop register of protected areas (Section 8)

A Register of protected areas has been compiled on a national basis by the Irish Environmental Protection Agency. The Register is based exclusively upon existing national and EU legislation regarding the protection of waters for economic, recreational and ecological purposes. These include:

- Areas designated for the abstraction of water intended for human consumption
- Areas designated for the protection of economically significant aquatic species (fish, shellfish)
- Areas designated as recreational and bathing waters
- Nutrient-sensitive areas
- Areas designation for the protection of habitats (including birds)

Salmonid waters, Special Areas of Conservation (SACs, cSACs, pcSACs) and Special Protection Areas (SPAs and pSPAs) are included within the Register as areas protected for water dependent species and habitats. Only the SACs that contain water dependent species and habitats have been included within the Register. In some cases, the actual extent of water dependent habitats and species within certain SACs is unclear. Where this is the case, the entire SAC has been included within the Register.

The accompanying maps and background documents referred to in this report are available on the [www.wfdireland.ie](http://www.wfdireland.ie) website

- establish and maintain a monitoring system (Section 10)

In accordance with Section 10 of the legislation the EPA published the [National Water Framework Directive Monitoring Programme](#) on 22<sup>nd</sup> December 2006 and subsequently submitted the Programme to the EU.

The agencies with statutory responsibility for implementing the monitoring programme for surface waters have been set out in the report also in accordance with Section 10 (2). These include the Environmental Protection Agency, Central Fisheries Board, Local Authorities, Office of Public Works, Waterways Ireland, National Parks and Wildlife Service and the Marine Institute.

- establishment of environmental objectives (Section 12)

Environmental objectives are required to be established by the relevant local authorities not later than 22<sup>nd</sup> June 2009 following consultation with the relevant public authorities and other persons considered appropriate.

- development of programme of measures (Section 12)

Programmes of measures are required to be established by the relevant local authorities not later than 22<sup>nd</sup> June 2009 to achieve the environmental objectives following consultation with the relevant public authorities and other persons considered appropriate.

- development of river basin management plans (RBMP) (Section 13)

The relevant local authorities with respect to each river basin district following consultation with relevant public authorities and other persons considered appropriate shall make and publish a River Basin Management Plan by the 22<sup>nd</sup> June 2009

- Public information and consultation (section 14)

Section 14 requires the relevant Local Authorities to publish

timetable and work programme for the making of a river basin management plan not later than 22<sup>nd</sup> June 2006

an overview of the significant water management issues in their basin (the “Water Matters Report”) not later than the 22<sup>nd</sup> June 2007

a draft of the river basin management plan not later than 22<sup>nd</sup> June 2008

- Establishment of a River Basin District Advisory Council (Section 16)

This section is amended by the European Communities (Water Policy) Amendment Regulations 2005.

### 5.2.2 European Communities (Water Policy) Amendment Regulations, 2005

#### [European Communities \(Water Policy\) Amendment Regulations, 2005](#)

SI 413 of 2005

These Regulations amend Section 16 of the European Communities (Water Policy) Regulations, 2003 relating to the establishment of the River Basin District Advisory Council (RBDAC) and setting out in more detail its size, composition, duration and date of establishment and the requirement to have regard to its output by the relevant local authorities in the each river basin district.

---

The role of the RBDAC is to facilitate public participation and to consider matters relating to the preparation of the river basin management plan and other matters relevant to the protection and use of the aquatic environment and water resources in each district and to advise and make recommendations on these matters to the relevant public authorities.

The composition of the RBDAC is available on each River Basin District websites (e.g. [www.westernrbd.ie](http://www.westernrbd.ie) ).

The list of public authorities in the First Schedule of the 2003 Regulations are also amended.

### 5.2.3 Water Environment (Water Framework Directive) Regulations

#### [Water Environment \(Water Framework Directive\) Regulations \(Northern Ireland\) 2003](#)

SR 544

The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003 (SR No. 544) were made by the competent authorities in Northern Ireland on 22 December 2003 and provide for transposition of the Water Framework Directive in relation to Northern Ireland, including provisions in relation to cross-border river basins.

### 5.2.4 Water Services Act 2007

#### [Water Services Act 2007](#)

No. 30 of 2007

The Water Services Act 2007 was signed into law on May 14<sup>th</sup> 2007 by the President and provides for major legislative revisions. Under the Act “Sanitary Authority” are re-titled as “Water Services Authority” and “Water Services” defined as all services, including the provision of water intended for human consumption, which provide storage, treatment or distribution of surface water, groundwater or water supplied by a water services authority, or waste water collection, storage, treatment or disposal”.

It incorporates a comprehensive review, update and consolidation of all existing water services legislation, and facilitates the establishment of a comprehensive supervisory regime to ensure compliance with specified performance standards. In summary it includes provision to

- consolidate water services law into a single modern code, for ease of access and application;
- introduce a licensing system to regulate the operations of group water services schemes,;
- amend the Environmental Protection Act 1992 to assign responsibility for supervision of sanitary authorities to the Agency in terms of their requirements to meet the standards set down for water supplies;
- strengthen administrative arrangements for planning the delivery of water services at national and local level, and

- 
- place duties of care on users of water services in relation to water conservation, protection of collection and distribution networks, and prevention of risk to public health and the environment.

Water Authorities (Sanitary Authorities) are required to prepare Water Services Strategic Plans in their functional areas to

- to protect human health and the environment,
- to facilitate the provision of sufficient water services for domestic and non-domestic requirements in the area to which the plan relates, and
- to support proper planning and sustainable development, including sustainable use of water resources,

### 5.2.5 Drinking Water

#### **[EC \(Quality of Surface Water Intended for the Abstraction of Drinking Water\) Regulations, 1989](#)**

SI 294 of 1989

These Regulations give effect to Directives 75/440/EEC and 79/869/EEC.

The Regulations prescribe quality standards and methods and frequencies of analysis for surface fresh water used or intended for use in the abstraction of drinking water.

Sanitary authorities are charged with ensuring that requirements are complied with and that substances in water do not exceed the minimum admissible concentration or constitute a public health hazard.

The Sanitary Authority is required to regularly monitor the quality of water intended for human consumption.

Where monitoring shows that water does not meet specified standards the sanitary authority is to warn the users of the supply and prepare action programme for improvement of water quality.

The Regulations provide for the charging by sanitary authorities for monitoring quality of private water supplies.

#### **[EC \(Drinking Water No. 2\) Regulations, 2007](#)**

SI 278 of 2007

These Regulations revoke the EC Drinking Water Regulations, 2007 (SI 106 of 2007). They prescribe parameters and quality standards to be applied (two microbial, twenty six chemical, eighteen indicator and two radioactive) and related supervision and enforcement procedures in relation to supplies of drinking water, including requirements as to sampling frequency, methods of analysis, the provision of information to consumers and related matters.

### 5.2.6 Bathing Waters

[EC \(Quality of Bathing Water\) \(Revocation\) Order, 1992](#)

SI 154 of 1992

[EC \(Quality of Bathing Water\) Regulations, 1992](#)

SI 155 of 1992

[EC Quality of Bathing Water \(Amendment\) Regulations, 1994](#)

SI 145 of 1994

[EC Quality of Bathing Water \(Amendment\) Regulations, 1998](#)

SI 177 of 1998

The 1992 Order revoked the EC (Quality of Bathing Water) Regulations of 1988 and 1989 (SI 84 of 1988 and SI 99 of 1989).

The 1992 Regulations give effect to Directive 76/160/EEC and prescribe bathing water quality standards and 94 bathing areas to which the standards apply.

They prescribe the sampling programmes, arrangements for the display of results and the methods of analysis and inspection to be used by local authorities to determine compliance with the standards.

The 1994 Regulations add 22 bathing areas to the 94 bathing areas previously listed and the 1998 Regulations brought to 130 the number of bathing areas listed. Listed areas within the Western River Basin District are as follows:

- County Clare: Bishopsquarter
- Galway County: An Cnoc, Inverin; Bathing Place at Loughrea Lake; Beach at Spiddal Pier; Cill Muirbhthe, Inis Mor; Clifden; Gortin, Cloch Na Ron; Na Forbacha; Spiddal, Main Beach; Tra An Doilin, Ceathru Rua; Tra Chaladh Bhfuinnse; Traught, Kinvara
- Galway City: Salthill; Silver Strand;
- Mayo County: Bertra; Carrawmore; Doogort; Dooega, Achill; Elly Bay, Belmullet; Golden Strand, Achill; Keel, Achill; Keem, Achill; Killala, Ross Strand; Louisburgh, Old Head Beach; Louisburgh, Silver Strand; Mullaghroe, Belmullet; Mulranny; Rinroe, Carratigue; The Harbour, Clare Island.
- Sligo: Enniscrone; Rosses Point.

### 5.2.7 Salmonid Waters and Fisheries

#### [EC \(Quality Of Salmonid Waters\) Regulations, 1988](#)

SI 293 of 1988

The Regulations give effect to Directive 78/659/EEC.

These Regulations prescribe quality standards for salmonid waters and designate the waters to which they apply, together with the sampling programmes and the methods of analysis and inspection to be used by local authorities to determine compliance with the standards.

Designated fresh waters are specified in First Schedule as salmonid waters and they are to meet the quality standards specified in the Second Schedule.

Local authorities are required to carry out sampling of waters as specified.

Where salmonid waters do not comply with specified standards the local authority is to establish the reasons why and adopt programme to reduce pollution and ensure compliance with standards.

Local authority is to establish and maintain register of sampling results which are to be available for public inspection.

Specified salmonid waters within the Western River Basin District are as follows:

- Rivers: River Corrib  
River Moy (Main channel and the following tributaries of the River Moy:- Owengarve, Mullaghanoe, Spaddagh, Trimoge, Glore, Yellow, Gwesstion, Manulla, Castlebar, Deel and Corry).  
A number of SACs include salmon as a qualifying interest.
- Lakes: Lough Corrib

#### [Fisheries \(Consolidation\) Act, 1959](#)

Act 14 of 1959

Section 171 makes it an offence to throw, empty permit or cause to fall into any waters any deleterious matter.

Section 172 of the Act requires that special precautions shall be taken where any receptacle used for containing or conveying any deleterious matter is within 30 yards of any waters.

S173 relates to Protection of Fishing Waters from Poisoning and Pollution and it has been used in situations where heavy machinery enters spawning rivers during the close season.

The Fisheries Boards can also initiate legal proceedings under the specific sections of The Local Government Water Pollution Acts 1977-1990

---

**[Fisheries \(Amendment\) Act, 1997](#)**

Act 23 of 1997

This Act amends and extends the laws relating to fisheries, prohibiting persons from engaging in aquaculture except with and in accordance with a licence. It establishes a procedure for the granting, renewal, amendment and revocation of licences, to allow for appeals against decision relating to licenses, and for connected purposes.

**5.2.8 Shellfish Waters****[Quality of Shellfish Waters Regulations, 2006](#)**

SI 268 of 2006

The Regulations give effect to Directive 79/923/EEC and replace the Quality of Shellfish Waters Regulations, 1994 and 2001(SI 200 of 1994 and SI 459 of 2001).

They prescribe quality standards for shellfish waters and designate the waters to which they apply, together with sampling and analysis procedures to be used to determine compliance with the standards. The Regulations also require the preparation and implementation of action programmes in respect of all such waters.

Areas within the Western River Basin District to which standards apply are as follows:

- Co Galway:           Kilkieran Bay  
                          Clarinbridge/Kinvara Bay  
                          The Bay at Aughinish
- Co Mayo:            Clew Bay (East of Old Head)  
                          Killary Harbour

**5.2.9 Phosphorous****[Local Government \(Water Pollution\) Act, 1977 \(Water Quality Standards for Phosphorus\) Regulations, 1998](#)**

SI 258 of 1998

These Regulations give effect to certain requirements arising under Directive 76/46/EC (Dangerous Substances).

The Regulations provide for specified improvements in water quality conditions in rivers and lakes based on phosphorus concentrations or related water quality classifications. They also provide for periodic reporting in relation to progress in implementing the requirements of the Regulations.

---

### 5.2.10 Dangerous Substances

#### [Water Quality \(Dangerous Substance\) Regulations, 2001](#)

SI 12 of 2001

These Regulations give further effect to Directive 76/464/EC (Dangerous Substances) and give effect to certain provisions of Directive 2000/60/EC (the Water Framework Directive).

The Regulations prescribe water quality standards in relation to certain substances in surface waters e.g. rivers, lakes, tidal waters. The 14 substances covered by the Regulations include pesticides, solvents and metals, selected on the basis of their use or presence in Ireland and their potential impacts in waters by virtue of toxicity, persistence or bioaccumulation.

Prescribed standards must be complied with not later than the end of December 2010.

## 5.3 EMISSIONS CONTROL LEGISLATION

### 5.3.1 Water Pollution

#### [Local Government \(Water Pollution\) Act, 1977](#)

Act 1 of 1977

#### [Local Government \(Water Pollution\) Act, 1990](#)

Act 21 of 1990

These Acts include a general prohibition on entry of polluting matter to waters and Local Authorities are assigned the primary responsibility for the control of pollution to waters.

The Acts include provisions concerning the following:

- Licensing of discharges to waters, sewers and groundwaters;
- Water quality standards;
- Water quality management plans;
- Nutrient management plans;
- Civil liability of polluters; and
- Bye-laws regulating agricultural activities.

“Polluting matter” is defined in the Act of 1977 as being “any poisonous or noxious matter, and any substance, the entry or discharge of which, into any waters is liable to render those or any other waters poisonous or injurious to fish, spawning ground or the food of any fish, or to injure fish in their value as human food, or to impair the usefulness of the bed and soil of any waters as spawning grounds or their capacity to produce the food of fish or to render such waters harmful or detrimental to public health or to domestic, commercial, industrial, agricultural or recreational uses”.

**Local Government (Water Pollution) Regulations, 1978**

SI 108 of 1978

**Local Government (Water Pollution) Regulations, 1992**

SI 271 of 1992

**Local Government (Water Pollution) (Amendment) Regulations, 1996**

SI 184 of 1996

**Local Government (Water Pollution) (Amendment) Regulations, 1999**

SI 42 of 1999

The provisions of the 1978 Regulations relate to the following:

- Procedural matters in relation to licensing of discharges to waters and to sewers;
- Appeals to An Bord Pleanála in relation thereto;
- Registers of licenses and of water abstractions; and
- Water quality management plans and other miscellaneous matters under the Local Government (Water Pollution) Act, 1977.

The 1992 Regulations:

- Provide for various procedural and other matters in regard to licence applications and reviews and appeals to An Bord Pleanála in these respects. Time limits are provided for decisions on licence applications by local and sanitary authorities and time limits for determinations in the case of appeals are also provided as an objective for An Bord Pleanála.
- Specify the fees payable in the case of applications, reviews and appeals (including oral hearings). Fees are also prescribed for copies of any entry in a register of licenses to be kept by local and sanitary authorities under the Acts; and
- Make further provision for the control of discharges of harmful substances to groundwaters in implementation of Directive 80/68/EEC (Groundwater).

The 1996 Regulations:

- Amend provisions of the 1978 Regulations concerning the application of the standard two month period allowed for the determination of license applications for effluent discharges to sewers in circumstances where discharges are made to combined drains declared to be sewers for the purposes of the Local Government (Water Pollution) Acts; and
- Amend provisions of the 1992 Regulations on the control of discharges to aquifers in situations where harmful substances are present in discharges, materials being disposed, etc. in such small quantities as to pose no risk to the quality of groundwaters.

The 1999 Regulations:

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

### 5.3.2 Urban Waste Water Treatment

#### [Urban Waste Water Treatment Regulations, 2001](#)

SI 254 of 2001

These Regulations are intended to give effect to the Water Framework Directive 2000/60/EC, but principally to give effect to the Urban Wastewater Directive (91/271/EEC).

The Regulations revoke and replace the EPA Act, 1992 (Urban Waste Water Treatment) Regulations, 1994 (SI 419 of 1994) and the EPA Act, 1992 (Urban Waste Water Treatment) (Amendment) Regulations, 1999 (SI 208 of 1999).

The Regulations:

- Prescribe requirements in relation to the provision of collecting systems and treatment standards and other requirements for urban waste water treatment plants, generally and in sensitive areas; and
- Provide for monitoring procedures in relation to treatment plants and make provision for pre-treatment requirements in relation to industrial waste water entering collecting systems and urban waste water treatment plants.

Sensitive Waters are designated in Parts 1 and 2 of the Third Schedule. Discharges to Sensitive Waters listed in Part 1 must receive more stringent treatment on the commencement of the regulations. Discharges to Sensitive Waters listed in Part 2 must receive more stringent treatment by 31 May 2008.

Waters in the Western RBD have been listed in Part 1 of the Third Schedule are as follows:

- River Castlebar, County Mayo - downstream of sewage treatment works outfall at Knockthomas to entry into Lough Cullin.

No waters in the Western RBD that have been designated as sensitive in Part 2 of the Third Schedule.

### 5.3.3 Nitrates

#### [EC \(Protection of Waters Against Pollution from Agricultural Sources\) Regulations, 2003](#)

SI 213 of 2003

These Regulations identify the national territory of Ireland as the area to which an action programme will be applied to protect water quality against pollution caused by nitrates from agricultural sources.

---

The Regulations give further effect to Directive 91/676/EEC (Nitrates Directive) and Directive 2000/60/EC (Water Framework Directive).

**[EC \(Good Agricultural Practice for Protection of Waters\) Regulations, 2006](#)**

SI 378 of 2006

These Regulations revoke, and re-enact with amendments, the EC (Good Agricultural Practice for Protection of Waters) Regulations, 2005 (SI 788 of 2005). They are effective generally from August 2006 with later commencement dates for certain provisions.

They provide statutory support for good agricultural practice to protect waters against pollution from agricultural sources and include measures such as:

- Set periods when land application of fertilisers is prohibited;
- Limits on the land application of fertilisers;
- Storage requirements for livestock manure; and
- Monitoring of the effectiveness of the measures in terms of agricultural practice and impact on water quality.

The Regulations give further effect to Directive 91/676/EEC (Nitrates Directive) and Directive 2000/60/EC (Water Framework Directive).

#### **5.3.4 Groundwater Pollution**

**[Protection of Groundwater Regulations, 1999](#)**

SI 41 of 1999

The Regulations are made under the EPA Act, 1992 and give further effect to Directive 80/68/EEC (Groundwater Directive).

These Regulations are intended to provide additional protection for groundwater against discharges of certain dangerous substances. They:

- Prohibit the discharge by sanitary authorities of certain dangerous substances to groundwater; and
- Provide for controls by the EPA, by way of a licensing system, in relation to discharges of other such substances by sanitary authorities.

Any application for a licence to discharge sewage or trade effluents containing harmful substance must be accompanied by the results of a prior investigation into the alternative methods of disposal of the harmful substance and an examination of the aquifer to determine the quality and volume of water present and any risk to the aquifer as a result of the entry of the substance.

The EPA is required to carry out or cause to be carried out monitoring in relation to the effects on groundwaters of a discharge.

---

### 5.3.5 Dangerous Substances

#### [Local Government \(Water Pollution\) Act, 1977 \(Control of Cadmium Discharges\) Regulations, 1986](#)

SI 294 of 1985

These Regulations give effect to Directive 83/513/EEC.

The Regulations prescribe quality standards to be applied by local authorities when licensing discharges of effluents containing cadmium to waters, excluding aquifers, and to sewers under Sections 4 and 16 of the Local Government (Water Pollution) Act, 1977.

Regard to be had to best available technology.

#### [Local Government \(Water Pollution\) Act, 1977 \(Control of Hexachlorocyclohexane and Mercury Discharges\) Regulations, 1986](#)

SI 55 of 1986

These Regulations give effect to Directives 84/491/EEC and 84/156/EEC.

The Regulations prescribe quality standards to be applied by local authorities when licensing discharges of effluents containing mercury and hexachlorocyclohexane to waters, excluding aquifers, and to sewers under Sections 4 and 16 of the Local Government (Water Pollution) Act, 1977

Regard to be had to best available technology.

#### [EC \(Control of Water Pollution by Asbestos\) Regulations, 1990](#)

SI 31 of 1990

These Regulations give effect to water pollution control provisions of Directive 87/217/EEC on the prevention and reduction of environmental pollution by asbestos.

The Regulations impose a general obligation to prevent the entry of asbestos to waters and specify the measures to be applied to certain industrial plant using asbestos.

They also provide for the monitoring of effluent discharges from industrial plant.

#### [Local Government \(Water Pollution\) Acts, 1977 and 1990 \(Control of Aldrin, Dieldrin, Endrin, Isodrin, HCB, HCBd and CHCL3 Discharges\) Regulations, 1993](#)

SI 348 of 1993

These Regulations give effect to Directive 88/347/EEC on limit values and quality objectives for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC.

The Regulations prescribe quality standards to be applied by local and sanitary authorities when licensing discharges of effluents containing aldrin, dieldrin, endrin, isodrin, HCB, HCBd and CHCL3 to waters or to sewers under the provisions of the Local Government (Water Pollution) Act, 1977 as amended by the Local Government (Water Pollution) (Amendment) Act, 1990.

**[Local Government \(Water Pollution\) Act, 1977 and 1990 \(Control of Carbon Tetrachloride, DDT and Pentachlorophenol Discharges\) Regulations 1994](#)**

SI 43 of 1994

These Regulations give effect to 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/EEC.

The Regulations prescribe quality standards to be applied by local and sanitary authorities when licensing discharges of effluents containing carbon tetrachloride (CCL<sub>4</sub>), DDT and pentachlorophenol to waters or to sewers under the provisions of the Local Government (Water Pollution) Act, 1977 as amended by the Local Government (Water Pollution) Act, 1990.

**[Local Government \(Water Pollution\) Acts, 1977 and 1990 \(Control of EDC, TRI, PER and TCB Discharges\) Regulations, 1994](#)**

SI 245 of 1994

These Regulations give effect to Directive 90/415/EEC on limit values and quality objectives for discharges of certain dangerous substances included in List I of the Annex to Directive 76/464/EEC.

The Regulations prescribe quality standards to be applied by local and sanitary authorities when licensing discharges of effluents containing EDC, TRI, PER and TCB to waters or to sewers under the provisions of the Local Government (Water Pollution) Act, 1977 as amended by the Local Government (Water Pollution) Act, 1990.

## **5.4 RELATED WATER SECTOR LEGISLATION**

### **5.4.1 Industrial Pollution Control**

**[Environmental Protection Agency Act, 1992](#)**

Act 7 of 1992

**[Protection of the Environment Act, 2003](#)**

Act 27 of 2003

The 1992 Act established the EPA, giving it responsibilities for a wide range of licensing, enforcement, monitoring and assessment activities associated with environmental protection. Environmental protection includes the control of pollution of environmental media which include the atmosphere, land, soil and waters.

Amongst the general functions of the Agency are the following:

- Licensing, regulation and control of activities for the purposes of environmental protection;
- Monitoring of the quality of the environment, including the establishment and maintenance of databases of information relating to the environment; and

- Provision of support and advisory services for the purposes of environmental protection to local authorities and other public authorities.

The Protection of the Environment Act 2003 provides primarily for the implementation of Directive 96/61/EC (Integrated Pollution Prevention and Control). This is mainly by way of amending the EPA Act, 1992 and the Waste Management Act, 1996.

In addition to provisions arising from the Directive, the Act also includes a number of further measures to strengthen licensing systems, in relation to implementation and enforcement.

The Act provides a statutory basis for the implementation in full of Directive 80/68/EEC (Groundwater).

#### **EPA (Licensing) Regulations, 1994**

SI 85 of 1994

#### **EPA (Licensing) (Amendment) (No. 2) Regulations, 1996**

SI 240 of 1996

#### **EPA (Licensing) (Amendment) Regulations, 2004**

SI 394 of 2004

The 1994 Regulations provide for various procedural matters in relation to the integrated licensing by the EPA of scheduled activities under the EPA Act, 1992.

The Regulations:

- Provide for applications for licences, reviews of licences or revised licences, consideration by the Agency of objections, including the holding of oral hearings and the contents of the register of licenses;
- Prescribe the day on or after which specified classes of activity in the First Schedule to the 1992 Act will require an integrated licence in accordance with section 82 (1) of the Act; and
- Specify the "relevant day" for the purposes of the definition of "established activity" in section 3 of the 1992 Act in respect of specified classes of activity in the First Schedule to that Act.

The 1996 Regulations amend the 1994 Regulations.

The principal purpose of the 2004 Regulations is to amend the EPA (Licensing) Regulations 1994 to ensure that the integrated licensing system operated by the EPA complies in all respects with the provisions of Directive 96/61/EC (Integrated Pollution Prevention and Control).

In particular, the Regulations:

- Amend and extend the range of documentation that must accompany an application for a licence; extend the powers of the EPA to decline to process licence applications where the applicant fails to provide additional information within specified timescales; update the range of bodies that the Agency must give notifications to; replace a requirement on the Agency to maintain and publish lists of proposed determinations and decisions by clear requirements to

advertise the making of such determinations and decisions; and require the Agency to have regard to specified polluting substances when specifying emission limit values;

- Prescribe offences for the purposes of the Agency making decisions on whether an applicant is a fit and proper person (as defined in the Act) to hold a licence and define a relevant person in the case of companies etc. for the purposes of the fit and proper person requirement; and
- Require the EPA to publish, every four years, its report on the State of the Environment giving legal effect to existing practice and a first step towards transposing into Irish law Directive 2003/4/EC on public access to environmental information and repealing Directive 90/313/EEC.

#### 5.4.2 Waste Management

##### [Waste Management Act, 1996](#)

Act 10 of 1996

##### [Waste Management \(Amendment\) Act, 2001](#)

Act 36 of 2001

The objectives of the Waste Management Act, 1996 are to provide for:

- A more effective organisation of public authority functions in relation to waste management, which involves new or redefined roles for the Minister, the EPA and local authorities;
- Measures - mainly regulatory powers - designed to improve national performance in relation to the prevention, minimisation and recovery/recycling of wastes; and
- A comprehensive and modern regulatory framework for the application of higher environmental standards, particularly in relation to waste disposal, in response to EU and national waste management requirements.

The core provisions of the Act include:

- An obligation on a person to take all such reasonable steps as are necessary to prevent or minimise the production of waste arising from any agricultural, commercial or industrial activity, or from any product, including steps to be taken at design stage of a product;
- A prohibition on the holding, transportation, recovery or disposal of waste in a manner that causes or is likely to cause environmental pollution;
- A prohibition on the transfer of waste to a person other than an authorised person;
- A prohibition on the recovery or disposal of waste at an unlicensed facility; and
- Penalties of up to £10 million and/or ten years imprisonment for offences plus potential liability for clean-up costs.

The primary purpose of the Waste Management (Amendment) Act, 2001 was to provide a legal mechanism by which the first Regional Waste Management Plans could be made. It provides that

---

the making of a waste management plan will become an executive (management) function, a change from the Waste Management Act 1996, where the power was a reserved (elected member) function.

The Act also provides for:

- An environmental levy on the supply by retailers of plastic shopping bags and, potentially, the extension of the levy to other products which are problematic in waste management terms;
- A levy on the landfill of waste;
- The establishment of an "Environment Fund", through which the proceeds of these levies will be disbursed to finance beneficial environmental initiatives in a range of areas including waste management, environmental education and awareness;
- Amendment to clarify the position regarding licensing of certain waste activities; and
- An increase in the on-the-spot litter fine and provision for future changes in the level of the fine.

#### **Waste Management (Permit) Regulations, 1998**

SI 165 of 1998

These Regulations provide for the granting of waste permits by local authorities in respect of specified waste disposal and recovery activities in lieu of a licence by the EPA under the Waste Management Act, 1996.

The Regulations also provide for the registration by local authorities of the storage of hazardous waste, in excess of specified amounts, at its place of production and for the registration by the EPA of certain waste recovery activities carried on by local authorities.

#### **Waste Management (Collection Permit) Regulations, 2001**

SI 402 of 2001

These Regulations provide for the commencement and operation of a system of permitting of waste collection activities under the Waste Management Act, 1996.

The Regulations prescribe that on or after 30 November 2001, the collection of waste on a commercial basis requires a waste collection permit from a relevant local authority in accordance with section 34(1) of the Act.

The Regulations set out procedures for the making of permit applications, public consultation, consideration by local authorities of submissions in relation to permit applications, and the grant, refusal and review of permits by local authorities.

Certain waste collection activities that are subject to controls under other legislation are exempt from the permitting requirement.

The Regulations cancel waste oil collection permits issued under the Waste Management (Miscellaneous Provisions) Regulations, 1998

**[Waste Management \(Licensing\) Regulations, 2000](#)**

SI 185 of 2000

**[Waste Management \(Licensing\) Regulations, 2004](#)**

SI 395 of 2004

The 2004 Regulations provide for the continued operation of the system of licensing by the EPA of waste recovery and disposal activities under Part V of the Waste Management Act, 1996. The Regulations set out procedures for the making of waste licence applications, reviews of licences and consideration by the Agency of objections, including the holding of oral hearings.

Set out procedures for the following: notices regarding applications for or reviews of waste licences; making of an application for a licence or review of a licence; consideration of applications and reviews; consideration of objections, including the holding of oral hearings; conditions attached to grant and review of a waste licence; fees for applications, review or surrender of a waste licence, making of objections, etc.

EPA is to classify each landfill as being for hazardous, non-hazardous or inert waste.

Wastes that are prohibited from landfills are specified, as are wastes to be accepted in different classes of landfill.

The 2004 Regulations revoke the Waste Management (Licensing) Regulations 2000 (save for articles 3 and 4 and the First Schedule), Waste Management (Licensing) (Amendment) Regulations 2001 (SI 397 of 2001), the Waste Management (Licensing) (Amendment) Regulations 2002 (SI 336 of 2002) and the EC (Amendment of Waste Management (Licensing) Regulations 2000) Regulations 2002 (SI 337 of 2002).

**5.4.3 Sewage Sludge****[Waste Management \(Use of Sewage Sludge in Agriculture\) Regulations, 1998](#)**

SI 148 of 1998

These Regulations prescribe standards for the use of sewage sludge in agriculture. The Regulations give effect to Council Directive 86/278/EEC on the protection of the environment, and in particular of the soil, when sewage sludge is used in agriculture.

The Regulations are effective from May 1998 and replace the EC (Use of Sewage Sludge in Agriculture) Regulations, 1991 (SI 183 of 1991) which are revoked.

**[Waste Management \(Use of Sewage Sludge in Agriculture\) \(Amendment\) Regulations, 2001](#)**

SI 267 of 2001

These Regulations amend the Waste Management (Use of Sewage Sludge in Agriculture) Regulations, 1998 (SI 148 of 1998) by replacing the two tonne per hectare per year limit on the amount of dry matter to be added to soil, with limits based on absolute quantities of specified heavy metals which may be introduced into soil per hectare per year subject to the carrying out of nutrient management plans.

---

The Regulations also require that sludge is used in accordance with a nutrient management plan and provide for the inclusion of additional technical parameters to be entered in the sludge register provided for in the 1998 Regulations.

#### 5.4.4 Flora & Fauna

##### [Wildlife Act, 1976](#)

Act 39 of 1976

The Act provides for the conservation of wildlife (including game) and for that purpose to protect certain wild creatures and flora, for the establishment of the Wildlife Advisory Council and definition of its functions. It also:

- Enables certain other bodies to be established to provide or administer certain services;
- Establishment and maintenance of reserves and refuges for wildlife;
- Regulation and control dealing in and movement of wildlife; and
- Makes certain provisions relating to land, inland waters and the territorial seas of the state.

##### [EC \(Natural Habitats\) Regulations, 1997](#)

SI 94 of 1997

These Regulations give effect to Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitats Directive).

The Regulations empower the Minister to designate special areas of conservation (endangered species and habitats of endangered species) as a contribution to an EU Community network to be known as NATURA 2000.

The Regulations place an obligation on the Minister, other Ministers of the Government, Local Authorities and other State Bodies to have regard to the provisions of the Regulations in carrying out their powers and functions under certain Enactments under their control.

##### [EC \(Wildlife Act, 1976\) \(Amendment\) Regulations, 1985](#)

SI 397 of 1985

These Regulations amend certain provisions of the Wildlife Act 1976, for the purpose of giving full effect to EC Council Directive of 2 April, 1979, on the conservation of wild birds.

The Regulations strengthen the existing protection afforded under the Act to wild birds from unnecessary disruption caused by certain activities such as ornithology, agriculture, forestry, road construction, archaeology or building and engineering operations and make unlawful the sale of eggs taken from the wild or, save under very limited circumstances, the possession of eggs taken from the wild.

The Regulations also provide that certain species of wild birds hitherto included in the Third Schedule to the Wildlife Act 1976, shall be removed from that Schedule. The effect of this provision is to declare these species to be protected species for purposes of the Act.

**EC (Wildlife Act, 1976) (Amendment) Regulations, 1986**

SI 254 of 1986

These Regulations amend certain provisions of the Wildlife Act 1976, which obtain to the control of species of wild bird which may cause damage or injury to specified interests.

The Regulations empower the Minister to declare that any or all of the species of wild birds mentioned in the First Schedule thereto may be captured or killed by the means, arrangements or methods set out in the Second Schedule where they represent a threat to public health or safety or are likely to cause damage or injury to crops, livestock, fisheries, forestry or fauna.

The Regulations also empower the Minister to declare that any species of wild bird may be captured or killed where he is of the opinion that such species may represent a threat to air safety.

**EC (Natural Habitats) (Amendment) Regulations, 1998**

SI 233 of 1998

These Regulations amend the EC (Habitats Directive) Regulations, 1997 (SI 94 of 1997) by providing that the Interpretation of the term "the Habitats Directive" in Regulation 2 be amended to include Directive 97/62/EC adapting the Habitats Directive to technical and scientific progress.

Directive 97/62/EC replaced Annex I and Annex II to the Habitats Directive with new Annexes. Annex I lists the natural habitat types of Community interest whose conservation requires the designation of Special Areas of Conservation. Annex II lists the animal and plant species of Community interests whose conservation requires the designation of Special Areas of Conservation.

**Flora (Protection) Order, 1999**

SI 94 of 1999

The Order declares certain species of flora to be protected throughout the State.

Each of the species of flora specified in column (1) of the Schedule to the Order is declared to be protected throughout the State

In effect this means that, except under licence from the Minister for Finance, it is an offence for a person to cut, pick, uproot or otherwise take, purchase, sell or be in possession of any plant whether whole or part, of a species mentioned in the Order, or wilfully to alter, damage, destroy or interfere with the habitat of such a species.

This Order revokes the Flora (Protection) Order, 1987 (SI 274 of 1987), which had in turn revoked the Flora (Protection) Order, 1980 (SI 338 of 1980).

**Wildlife (Amendment) Act, 2000**

Act 38 of 2000

Part III of the Act deals with lands and waters and provides for the proposal and making of Natural Heritage Area orders designating land as a natural heritage area.

---

It provides that no person shall carry out, or cause or permit to be carried out, any works specified in the order or any works which are liable to destroy or to significantly alter, damage or interfere with the features by reason of which the designation order was made. These provisions also apply to proposed Natural Heritage Areas.

The Act provides amendment of the EC (Natural Habitats) Regulations, 1997 (SI 94 of 1997) to provide definition of a European site.

#### **[EC \(Natural Habitats\) \(Amendment\) Regulations, 2005](#)**

SI 378 of 2005

The Regulations amend the EC (Natural Habitats) Regulations 1997 (SI 94 of 1997) as amended by the EC (Natural Habitats) (Amendment) Regulations 1998, and in doing so make amendments to the Wildlife Acts 1976 and 2000.

A specific reference to Council Directive 79/409 is now made in the preamble to the Regulations.

#### **[Heritage Act, 1995](#)**

Act 4 of 1995

This Act repealed the Section of the 1976 Wildlife Act which established the Wildlife Advisory Council, and established The Heritage Council. The functions of the Heritage Council are to propose policies and priorities for the identification, protection, preservation and enhancement of the national heritage, including monuments, archaeological objects, heritage objects, architectural heritage, flora, fauna, wildlife habitats, landscapes, seascapes, wrecks, geology, heritage gardens and parks and inland waterways.

### **5.4.5 Forestry**

#### **Forestry Acts 1946, 1956, 1988**

##### **[Forestry Act 1946](#)**

##### **[Forestry Act 1956](#)**

##### **[Forestry Act 1988](#)**

The development of forestry in Ireland comes under the Forestry Acts, 1946, 1956 and 1988.

The 1946 Act reaffirmed the power of the Minister to undertake the collection, preparation, publication and distribution of statistics relating to forestry and promote and develop instruction and training in forestry. It also strengthened the legal position in relation to the felling of trees in the State. Felling of trees is subject to licence and a limited or general felling licence may be granted.

In the case of a limited felling licence, the Minister with responsibility for forestry can attach a replanting (reforesting) condition, a condition to protect and fence off such replanting (reforesting), as well as, a condition to preserve in accordance with the general practice of

good forestry not only newly planted trees, but also any natural regeneration which might arise as a result of the felling and fencing.

In the case of a general felling licence, it became compulsory to replant.

The 1956 Act was enacted to facilitate acquisition of land for forestry. The 1988 Act was enacted to establish Coillte Teoranta with responsibility for development of forestry in the State.

### **Non-binding policy and guidelines**

Under the Forestry Act, 1946 the Minister with responsibility for forestry is empowered to grant aid forestry developments by private individuals with conditions. Currently the Forest Service provides grant aid to many forestry developments including afforestation, forest road developments, urban woodland schemes and woodland improvement schemes. Grant aid is given subject to the adherence of the applicant to a suite of environmental guidelines and the Code of Best Forest Practice. None of these are legally binding but include:

- The [Code of Best Forest Practice](#) – Ireland;
- [Forestry and Archaeology Guidelines](#);
- [Forestry and Water Quality Guidelines](#);
- [Forest Harvesting and the Environment Guidelines](#);
- [Forest Biodiversity Guidelines](#);
- [Forestry and the Landscape Guidelines](#).

These form a series of new policy instruments primarily addressing forestry related research, environmental issues and sustainable forest management and include the Irish National Forest Standard;

### **Aerial Fertilisation**

#### **[Aerial Fertilization Licensing Regulations, 2006](#)**

SI 592 of 2006

The Minister for Agriculture and Food introduced control of aerial fertilization of forest stands in 2006. These regulations set out the limit and manner in which aerial fertilizer may be applied to forest stands to prevent impact on the aquatic environment.

The legislation sets out the requirement for

- an aerial fertilisation license
- consultation with the Local Authorities, Fisheries, River Basin District and Department of the Environment, Heritage and Local Government
- protection of European sites.
- powers of inspection

#### 5.4.6 Marine Waters

##### [Harbours Act, 1946](#)

Act 9 of 1946

Section 48 of the Act provides for the disposal by a harbour authority of material dredged from the harbour.

Section 88 prohibits the putting of ballast, earth, ashes, etc. into harbour waters unless authorised by the harbour authority.

##### [Sea Pollution Act, 1991](#)

Act 27 of 1991

##### [Sea Pollution \(Amendment\) Act, 1999](#)

Act 18 of 1999

The 1991 Act repealed the Oil Pollution of the Sea Acts, 1956 to 1977.

The Act gives effect to:

- The MARPOL Convention - International Convention for the Prevention of Pollution from ships (London, November 1973) as amended by the Protocol (London, February 1978); and
- The Intervention Protocol relating to Intervention on the High Seas in case of substances other than oil (London, November 1973).

It makes provision for Regulations regarding prohibiting or regulation of discharges at sea from ships and governing operations relating to substances carried on ships.

Requires notification of intent to load or unload any substance and requires records to be kept regarding operations and substance discharges.

Makes provision for requiring facilities being made by the harbour authority for the disposal of oily residues and other substances for reporting of incidents of discharges of oily or other substances.

The 1999 Act requires the operator of an oil handling facility to prepare and submit to the Minister for the Marine and Natural Resources a plan for the prevention and minimisation of damage arising out of an oil pollution incident.

The operator of an oil handling facility is to have an oil pollution emergency plan in place and to report oil pollution incidents to the harbour master.

##### [Sea Pollution \(Prevention of Oil Pollution\) \(Amendment\) Regulations, 1994](#)

SI 44 of 1994

##### [Sea Pollution \(Prevention of Oil Pollution\) \(Amendment\) Regulations, 1997](#)

SI 514 of 1997

The 1994 Regulations give effect to Annex I of the International Convention for the Prevention of Pollution from Ships, adopted by the International Maritime Organisation in 1973 and as amended

---

by its Protocol in 1978 and as further amended by the Marine Environment Protection Committee (MEPC) of the International Maritime Organisation.

The Regulations prohibit and control discharge into the sea of oil and oily mixtures. The Regulations require ships to follow specified procedures when washing cargo tanks. Ballasting arrangements and the discharge of ballast water are also controlled. The Regulations also provide for adequate facilities at ports and terminals for the reception of oil and oily mixtures.

The 1997 Regulations augment and strengthen the 1994 Regulations.

**[Sea Pollution \(Control of Pollution by Noxious Liquid Substances in Bulk\) Regulations, 1994](#)**

SI 46 of 1994

**[Sea Pollution \(Control of Pollution by Noxious Liquid Substances in Bulk\) \(Amendment\) Regulations, 1997](#)**

SI 515 of 1997

The 1994 Regulations give effect to Annex II of the International Convention for the Prevention of Pollution from Ships, adopted by the International Maritime Organisation in 1973 and as amended by its Protocol in 1978 and as further amended by the Marine Environmental Protection Committee (MEPC) of the International Maritime Organisation.

Noxious liquid substances are divided into four categories according to the severity of the hazard which they present to human health and the marine environment. Discharges into the sea of these substances or mixtures of them are prohibited except when the discharges are made under specified conditions, which vary according to the degree of hazard posed to the marine environment.

The Regulations require ships to follow specified procedures when washing cargo tanks in accordance with the category of the substance and the geographical location. They also provide for adequate facilities at ports, terminals or repair ports for the reception of residues or mixtures of noxious liquid substances.

The 1997 Regulations augment and strengthen the 1994 Regulations.

**[Dangerous Substances \(Oil Jetties\) Regulations, 1979](#)**

SI 312 of 1979

The purpose of these Regulations is to provide for all practicable steps to be taken by the appropriate persons concerned to prevent risk of injury to persons or property:

- In the vicinity of petroleum ships or oil jetties;
- In the loading or unloading of petroleum ships at oil jetties or in harbours; and
- In the conveying by pipeline of petroleum to or from ships' tanks and storage tanks ashore.

Requirements are laid down relating to the operational safety procedures and practices to be observed in loading or unloading of petroleum ships.

The Regulations also include provisions relating to pipelines; employment of competent persons and their instruction, training and supervision; safety information; protective clothing and equipment; and the monitoring, testing and evaluation of toxic or dangerous atmospheres.

The Regulations stipulate that the use by a person of an oil jetty for the purpose of loading or unloading operations shall be subject to statutory control by means initially of a first consent which may be valid for a period up to but not exceeding 3 years to be issued by the harbour master and the thereafter by his renewal of the consent.

Requirements also relate to operational matters.

#### **Foreshore Act, 1933**

Act 12 of 1933

#### **Foreshore (Amendment) Act, 1992**

Act 17 of 1992

The 1933 Act provides for the granting of foreshore leases by the Minister for Industry and Commerce.

Provides for the granting of foreshore licences for purposes such as the erection of structures or placing materials thereon, the payment of monies for same and the termination of licences if the conditions are breached.

Prohibit the deposition of any material on the foreshore without the consent of the Minister of the Marine, or the deposition of noxious articles on any tidal lands or into the sea adjacent to such lands.

Foreshore means the bed and shore below the line of high water of medium tides.

Tidal Lands mean the bed and shore below the line of high water of ordinary spring tides.

The 1992 Act is concerned principally with the removal of beach material or its disturbance.

#### **5.4.7 Miscellaneous**

#### **Local Government (Sanitary Services) Act, 1948**

Act 3 of 1948

#### **Local Government (Sanitary Services) Act, 1962**

Act 26 of 1962

#### **Local Government (Sanitary Services) Act, 1964**

Act 29 of 1964

The Acts provide powers of entry, inspection and search to authorised persons in connection with Regulations.

Sanitary authorities may specify drainage works to be executed to premises where the authority deems the drainage to be unsatisfactory. A sanitary authority has powers to issue orders requiring such work to be undertaken.

---

Where a sanitary authority suspects that wastes systems are defective or liable to cause nuisance or injury, it has powers to inspect such systems.

A sanitary authority has powers of entry allowing it to take samples from any water supply system in order to ascertain its fitness for human consumption.

**[Health \(Fluoridation of Water Supplies\) Act, 1960](#)**

Act 46 of 1960

**[Health \(Fluoridation of Water Supplies\) Regulations, 1971](#)**

SI 119 of 1971

This Act provides for the fluoridation of water supplies by sanitary authorities. The responsibility for fluoridation of water supplies was transferred to health boards under the Health Act, 1970.

The effect of the Regulations is to require county councils to fluoridate public water supplies on behalf of health boards. The sanitary authority continues to be responsible for the operation of fluoridation on an agency basis.

**[Public Health \(Ireland\) Act, 1878](#)**

**[Public Health Acts Amendment Act, 1907](#)**

Sanitary authorities are empowered to provide their districts with a supply of water which is proper and sufficient for both public and private purposes and must provide and keep in their waterworks a supply of pure and wholesome water.

Existing and future sewers, with some exceptions, are vested in the relevant sanitary authority.

Sanitary authorities have a duty of maintaining sewers. The sanitary authority is required to cause to be made such sewers as may be necessary for draining their district.

Any system used for the supply of water for domestic purposes which is so kept as to render the water liable to contamination and a possible danger to health is regarded as a statutory nuisance.

**[Waterworks Clauses Act, 1847](#)**

**[Waterworks Clauses Act, 1863](#)**

This 1847 Act specifically prohibits the contamination of any stream or reservoir used as a public water supply, or any aqueduct or any other part of the supply system.

This 1863 Act makes it an offence for any person negligently to allow pipes etc. to be out of repair so that water is wasted or contaminated or impurities are allowed enter the water supply system.

---

**[EC \(Control of Major Accident Hazards Involving Dangerous Substances\) Regulations, 2006](#)**

SI 74 of 2006

The purpose of these Regulations is to transpose Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances as amended by Directive 2003/105/EC of the European Parliament and of the Council.

The Regulations revoke and replace:

- The EC (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2000 (SI 476 of 2000); and
- The EC (Control of Major Accident Hazards Involving Dangerous Substances) (Amendment) Regulations 2003 (SI 402 of 2003).

The Regulations apply to establishments where dangerous substances are present in amounts equal to or exceeding the application thresholds.

Operators of establishments are required to take all necessary measures to prevent the occurrence of major accidents and to limit the consequences of accidents for people and the environment.

The Regulations impose duties in respect of safety management systems, preparation of safety reports and emergency preparedness. They also deal with provision of advice on major hazards in the context of land-use planning decisions.