

23 December 2003

Letter ref WQ 3/03

### **European Communities (Water Policy) Regulations 2003**

A Chara

I enclose for your information and attention a copy of the European Communities (Water Policy) Regulations, 2003 (SI No. 722) which were made by the Minister for the Environment, Heritage and Local Government on 22 December 2003 and which transpose the EU Water Framework Directive into Irish national law. Based on the Directive, the Regulations generally establish a new framework for management and protection of water quality by reference to river basins districts.

In summary, the Regulations provide for –

- the protection of the status of all waters (i.e. no deterioration to be allowed) and the achievement of at least “good status” by 22 December 2015 for all waters
- the establishment of “river basin districts” (RBDs) as the administrative areas for implementation of the Directive (including international RBDs in relation to cross-border river basins)
- the co-ordination of actions by all relevant public authorities for water quality management in an RBD including cross-border RBDs
- the characterisation of each RBD
- the establishment of environmental objectives for each RBD
- the development of a programme of measures to achieve those objectives and subsequently its review / updating every six years

- the development and adoption in each RBD of a river basin management plan (RBMP) and subsequently its review / updating every six years.

## **RBDs**

Eight RBDs are being established on the island of Ireland, North and South. The Regulations (at article 5) identify the seven RBDs established in relation to areas in the South, including cross-border areas. One further RBD is wholly internal to Northern Ireland. The delineation of RBDs has been developed in consultation with authorities in Northern Ireland and interested parties generally. The function of mapping the RBDs, individual river basins, water bodies etc is assigned to the EPA.

## **Public authorities**

General duties are assigned by the Regulations (at article 3) to all public authorities to exercise their functions in a manner consistent with the Directive and to consult, co-operate and liaise with, and to support, other authorities (North and South) for co-ordinated implementation of the Directive and the Regulations e.g. provision of information, implementation of RBMPs. The Regulations assign specific functions mainly to the Minister, the EPA and local authorities. Numerous other bodies have functions relevant to the Directive and these bodies are listed in the First Schedule as “relevant public authorities” for consultation and other purposes.

The Regulations could give rise to the assignment of new functions to certain authorities e.g. in the context of monitoring programmes established by the EPA, programmes of measures established or RBMPs made by local authorities. Accordingly, reserve powers are assigned to the Minister, in consultation with other Ministers and public authorities where appropriate, to amend such monitoring programmes or programmes of measures in order to achieve consistency of approaches across RBDs e.g. articles 10(4), 12(5), 13(6).

## **Participation by interested parties**

All public authorities are required to encourage the active participation of all interested parties in relation to the implementation of the Regulations and the Directive (article 3).

## **Minister for the Environment, Heritage and Local Government**

The Minister is assigned (by article 4) tasks of co-ordination, assistance and guidance in relation to implementation, especially in relation to North / South co-ordination, together with reserve powers to amend certain measures established by local authorities and/or the

EPA i.e. monitoring programme, programme of measures, river basin management plan.

### **Competent authorities**

The Regulations identify (at article 6) –

- the **EPA** as the competent authority for co-ordinating measures by local authorities, for reporting to the European Commission and for other specified functions
- the **relevant local authorities, acting jointly**, as the “competent authorities” for the making of river basin management plans, and
- the local authority appointed to act as **co-ordinating authority** in relation to all the relevant local authorities in each RBD.

### **EPA**

The EPA is given a lead role in relation to the co-ordination of measures by local authorities for implementation of the Directive (article 6), especially technical and reporting measures, It is also assigned a number of specific functions including -

- mapping by 22 June 2004 in GIS format the boundaries of RBDs and identifying individual river basins
- mapping by 22 December 2004 in GIS format the location and boundaries of water bodies
- providing by 22 December 2004 the typology for differentiating surface water bodies and establishing type-specific reference conditions for such water bodies
- developing by 22 Dec 2004 and maintaining a register of protected areas (article 8)
- developing by 22 June 2006 classification systems for water status (article 9)
- establishing by 22 June 2006 a programme of monitoring of water status (article 10): this is an extension of the existing powers of EPA under section 65 of the EPA Act, 1992
- providing a report to the Minister in relation to a “programme of measures” and a RBMP adopted by local authorities (articles 12 and 13)

- making recommendations to the Minister in relation to environmental quality standards for priority substances and in relation to criteria for assessment of groundwater (articles 17 and 18)
- providing reports on a wide range of matters to the European Commission (article 6(1) and others)
- displaying information on websites (article 19)
- supervising the environmental protection functions of public authorities insofar as they relate to the implementation of the Directive and these Regulations (article 20): this represents an extension of the functions of the EPA under section 63 of the EPA Act, 1992: the extension relates solely to the implementation of the Water Framework Directive and the transposing Regulations.

### **Local authorities**

Local authorities are assigned the tasks of –

- carrying out by 22 December 2004 (article 7) an analysis of the characteristics of each RBD
- carrying out by 22 December 2004 (article 7) a review of the impact of human activity on the status of waters in each RBD
- carrying out by 22 December 2004 (article 7) an economic analysis of water use in each RBD
- establishing by 22 Dec 2004 (article 16) in each RBD a River Basin District Advisory Council to provide a forum for systematic involvement of interested parties and dialogue between such parties and the public authorities
- establishing monitoring systems by 22 December 2006 in accordance with monitoring programmes established under article 10
- establishing by 22 June 2009 (article 12) environmental objectives and a “programme of measures” to achieve those environmental objectives and to give effect to the wide range of water-related requirements arising under specified Directives e.g. Directives on Bathing Waters, Birds, Drinking Water, EIA, Habitats, IPPC, Major Accidents (Seveso), Nitrates, Plant Protection, Sewage Sludge, UWWT

- facilitating public participation (article 14) by the publication by specified dates of various documents leading up to the development of an RBMP i.e. timetable and work programme by 22 June 2006, overview of significant water management issues by 22 June 2007 and draft RBMP by 22 June 2008
- developing and adopting by 22 June 2009 (article 13) of a RBMP which will set out in summary form, all the maps and information in relation to an RBD developed in “characterisation”, objectives, measures to be taken, responsible authorities etc
- the preparation and publication of progress reports on implementation of the programme of measures (article 15), and
- the display of information on websites (article 19).

### **Cost Recovery**

The Regulations (article 11) require local authorities to comply with the provisions of Article 9 of the Directive in relation to the recovery of the costs of water services, having regard to Ireland’s position in relation Article 9.4 of the Directive, as stated in the minutes of the Environment Council which adopted the Directive, and on which basis Ireland supported its adoption i.e. that the provisions of Article 9.4 in relation to “established practices” permits the continued exemption from water charges of the domestic sector in Ireland.

### **Reserved Functions**

Two “reserved functions” are prescribed i.e. the establishment of a programme of measures (article 12) and the making of a river basin management plan (article 13). If these functions are not carried out by the due date (22 June 2009), they cease to be reserved functions and become executive functions exercisable by the managers.

### **Commencement**

The Regulations were made on 22 December 2003 and came into operation on being made.

### **Northern Ireland Legislation**

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.

## **River basin management projects**

Delivery of the main tasks required by the Regulations is being pursued by local authorities, the EPA, the Department of the Environment, Heritage and Local Government and other authorities, including authorities in Northern Ireland, in the context of inter-authority river basin management projects, research projects and other activities. It is necessary, however, for local authorities to have regard to all the requirements of the Regulations and to ensure that appropriate measures are put in place to meet those requirements. Guidance will be issued from time to time by the Department and the EPA to assist local authorities in this regard and to promote a co-ordinated approach to implementation.

## **Further information**

Queries in relation to the Regulations may be addressed to the undersigned.

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To each City Manager, County Manager and Director of Environmental Services