

2009 No. 2902

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

The Groundwater (England and Wales) Regulations 2009

Made
Coming into force

29th October 2009
30th October 2009

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PART 3

Discharge of a hazardous substance or non-hazardous pollutant

1. Discharge of a hazardous substance or non-hazardous pollutant
2. 13.—(1) It is an offence to cause or knowingly permit the discharge of any hazardous substance or non-hazardous pollutant in circumstances that might lead to an indirect input of that hazardous substance or non-hazardous pollutant into groundwater unless it is carried on under and in accordance with a permit granted by the Agency under this regulation.
- 3.
- 4.
- 5.

Meaning of "hazardous substance"
3.—(1) A hazardous substance is any substance or group of substances that are toxic, persistent and liable to bio-accumulate.

- (2) This includes in particular the following when they are toxic, persistent and liable to bio-accumulate—
 - (a) organohalogen compounds and substances which may form such compounds in the aquatic environment;
 - (b) organophosphorous compounds;
 - (c) organotin compounds;
 - (d) substances and preparations, or the breakdown products of such, which have been proved to possess carcinogenic or mutagenic properties or properties which may affect steroidogenic, thyroid, reproduction or other endocrine-related functions in or via the aquatic environment;
 - (e) persistent hydrocarbons and persistent and bioaccumulable organic toxic substances;
 - (f) cyanides;
 - (g) metals (in particular cadmium and mercury) and their compounds;
 - (h) arsenic and its compounds;
 - (i) biocides and plant protection products.

14. Application of...
15. Transfer of a permit granted under...

Penalties

- 22.—(1) A person guilty of an offence under regulation 13 or 18 is liable—
 - (a) on summary conviction, to a fine not exceeding £50,000 or imprisonment for a term not exceeding 12 months, or to both, or
 - (b) on conviction on indictment, to a fine or imprisonment not exceeding 5 years, or to both.
- (2) A person guilty of an offence under regulation 17 is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding three months or both, or
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

Offences by bodies corporate

- 23.—(1) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—
 - (a) any director, manager, secretary or other similar person of the body corporate; or
 - (b) any person who was purporting to act in any such capacity,
 that person is guilty of the offence as well as the body corporate.
- (2) For the purposes of this regulation, "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

PART 4

Enforcement and penalties

Power to require the provision of information

- 17.—(1) For the purposes of discharging its functions under these Regulations, the Agency may, by notice served on any person, require that person to provide, in such form and within such period as is specified in the notice, the information specified in the notice.
- (2) A notice may require a person to provide any information where that requirement is reasonable, including the provision of information—
 - (a) not in the person's possession; and
 - (b) which would not usually come into the person's possession.
- (3) Failure to comply with a notice without reasonable excuse is an offence.

Prohibition notice

- 18.—(1) Where—
 - (a) any person is carrying on, or proposing to carry on, any activity on or in the ground; and
 - (b) that activity might lead to the input into groundwater of any hazardous substance or non-hazardous pollutant,
 the Agency may serve notice in writing on that person prohibiting the carrying on of that activity.
- (2) Failure to comply with a notice is an offence.

Extracts from the new Groundwater (England and Wales) Regulations 2009 and Groundwater Directive (80/68/EEC)



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| Home | Groundwater Directives |
| Business & Industry | The Groundwater Directives aim to protect groundwater from pollution. |
| How we regulate you | The existing Groundwater Directive (80/68/EEC) aims to protect groundwater from pollution by controlling discharges and disposals of certain dangerous substances to groundwater. In the UK, the directive is implemented through the Groundwater Regulations (GWR) 2009. |
| Directives | We protect groundwater under these regulations by preventing or limiting the inputs of polluting substances into groundwater. Substances controlled under these regulations fall into two categories. |
| Groundwater Directive | Hazardous substances are the most toxic and must be prevented from entering groundwater. Substances in this list may be disposed of to the ground, under a permit, but must not reach groundwater. They include pesticides, sheep dip, solvents, hydrocarbons, mercury, cadmium and cyanide. Hazardous substances replace the previous List 1 substances which came under the 1988 GWR. |
| Who does it affect? | Non-hazardous pollutants are less dangerous, and can be discharged to groundwater under a permit, but must not cause pollution. Examples include sewage, trade effluent and most wastes. Non-hazardous pollutants include any substance capable of causing pollution and the list is much wider than the previous List 2 substances. For example, nitrate is included as a pollutant but it was excluded from List 2 in the 1998 GWR. |
| What is our role? | The existing Groundwater Directive is to be repealed by the Water Framework Directive 2000/60/EC (WFD) in 2013. The GWR 2009 have recently been made law to enact both the WFD and its Daughter Directive 2006/113/EC on the protection of groundwater. This new Groundwater Directive (2006/113/EC) is commonly referred to as the Groundwater Daughter Directive (GWDD). |