

Best Practice Guide BPGCS006

HOW TO OBTAIN AN EFFLUENT DISCHARGE LICENCE

Introduction:

This document deals with discharges from industrial facilities.

Any company that discharges trade effluent (including cooling water) or sewage effluent to waters or any company that discharges trade effluent (including cooling water) to sewers requires an effluent discharge licence.

Under the provisions of the Local Government (Water Pollution) Acts, 1977 and 1990, local authorities are responsible for the issuing of effluent discharge licences.

A different licence is required for the discharge of **effluent to waters** (Section 4) than **effluent to sewers** (Section 16).

The conditions attached to licences to discharge to both waters and sewers must be in accordance with:

- any relevant Water Quality Management Plans, or
- any relevant quality standards prescribed under the (Water Pollution) Acts 1977 and 1990 and the Water Framework Directive.

Definitions:

“*Trade Effluent*” means effluent from any works, apparatus, plant or drainage pipe used for the disposal to waters or to a sewer of any liquid (whether treated or untreated), either with or without particles of matter in suspension therein, which is discharged from premises used for carrying on any trade or industry (including mining), but does not include domestic sewage or storm water.

“*trade*” includes agriculture, aquaculture, horticulture and any scientific research or experiment.

“*sewage effluent*” means effluent from any works, apparatus, plant or drainage pipe used for the disposal to waters of sewage whether treated or untreated.

“*sewage*” includes domestic sewage and a combination of domestic sewage and storm water.

The meaning of a “*sewer*” is defined as “a sewer within the meaning of the local Government (Sanitary Services) Acts, 1878-1964, that is vested in or controlled by a sanitary authority and includes a sewage treatment works, and a sewage disposal works, that is vested in or controlled by a sanitary authority” and applies only to those managed by a sanitary authority

“*waters*” include:

- (i) any (or any part of any) river, stream, lake, canal, reservoir, aquifer, pond, watercourse or other inland, waters whether natural or artificial.
- (ii) any tidal waters – these include the sea and any estuary up to high water mark medium tide and any enclosed dock adjoining tidal waters.
- (iii) Where the context permits, any beach, river bank and salt marsh or other area which is contiguous to anything mentioned in (i) and (ii) above, and the channel or bed of anything mentioned in (i) above which is for the time being dry, but does not include a sewer.

“*aquifer*” means any stratum or combination of strata that stores or transmits groundwater

Exemptions:

A licence **is not** required for domestic sewage not exceeding a volume of 5m³ in any period of 24 hours that is discharged to an aquifer from a septic tank or other disposal unit by means of a percolation area, soakage pit or other method. A licence **is required** for discharge of domestic sewage from a septic tank where the discharge is direct to surface waters and, in all cases, where the discharge exceeds 5m³ in 24 hours.

A licence **is not** required for the discharge of domestic sewage to sewers.

Making an Application to Discharge Trade Effluent or Sewage Effluent to Waters (Section 4 of the Water Pollution Act):

Application should be made to the relevant local authority on a standard application form obtained from that local authority.

Public Notice:

Prior to the making of an application for a licence, an applicant must publish in a newspaper circulating in the functional area of the local authority a notice of his/her intention to make such an application. A notice should contain the heading:

“DISCHARGE OF EFFLUENT TO WATERS” and the following information must be specified in the notice:

- Name of applicant,
- Name of local authority,
- Description of the effluent,
- Nature of the trade or industry,
- Name and location of the premises from which the effluent is to be discharged,
- Waters to which the effluent is to be discharged.

The following is an example of an acceptable public notice:

DISCHARGE OF EFFLUENT TO WATERS

Notice is hereby given that Roscommon Food Processing Company Ltd., has applied to Roscommon County Council for a licence to discharge effluent from it's factory at Railway Road, (known as Roscommon Food Processing Factory) to the River Suck. The effluent to be discharged consists of waste washwater including detergents, fatty and organic soluble matter.

Documents to be submitted:

A licence application should be accompanied by the following:

- A completed Application Form
- A copy of the newspaper in which the public notice referred to above has been given (Note: The notice must be published within the two weeks prior to the date the application is received by the Council)
- For an existing discharge licence the following data needs to accompany the application :-
 - (a) duplicate copies of plans and such other particulars as are necessary to describe the premises, drainage systems and any works, apparatus or plant from which the effluent is to be discharged and to identify the waters to which the discharge is to be made. The point of discharge should be shown on 1-2500 Ordnance Survey Map
 - (b) particulars of the nature, composition, anticipated temperature, volume and rate of discharge or, and the proposed method of any treatment of, the effluent and the period or periods during which the effluent is to be discharged, and

- (c) in the case of a trade effluent, a general description of the process or activity giving rise to the discharge.
- For a discharge licence other than an existing discharge licence application:-
 - (a) In addition to that outlined above the applicant may be required to furnish other particulars as the local authority may reasonably require for consideration of the application, including particulars of the quality, volume and flow rate of receiving waters, the effects of the discharge on such waters and the results of any investigations made, or required by the local authority to be made, in relation to such matters.

Fees:

The application must be accompanied by a fee, which currently (August 2003) is €380.

Inspection of documents:

A local authority is obliged to make available for public inspection at its offices any application and any information submitted by the applicant until the licence application or any appeal is determined. Any person may make written representations or objections to a local authority in relation to a licence application.

Decision of a local authority:

A local authority will make a decision within two months once the application which includes all the proper information, submissions, etc. is submitted, whether to grant or refuse a licence or to grant one subject to conditions (the latter is the normal outcome). The local authority notifies the applicant and any person who submitted representations or objections regarding an application of their decision to grant or refuse a licence. They also publish the outcome of their decision in a newspaper circulating in the functional area of the local authority stating the decision and that the proposed licence is available for inspection at their offices by any member of the public.

Any objections, including those by the applicant, are then made directly to An Bord Pleanála (the Planning Appeals Board). The final decision is made by the Board having considered all appeals and, if held, the outcome of an oral hearing.

Granting a licence:

A local authority usually attaches conditions to a licence by which the licensee must comply with, these may:

- (a) relate to:
 - (i) the nature, composition, temperature, rate, volume, periods during which a discharge may or may not be made, the effect of the discharge on the receiving water and the design, construction and location of the discharge outlet;
 - (ii) the provision and maintenance of flow meters, gauges, other apparatus, manholes and inspection chambers;
 - (iii) the taking and analysis of samples, the keeping of records and the furnishing of information to the local authority;
 - (iv) the prevention of a discharge in the event of a breakdown of the plant.
- (b) require contribution towards the cost incurred by the local authority in monitoring the discharge.
- (c) specify a date not later than which any conditions shall be complied with,

The local authority may put in any other appropriate conditions e.g. to bund tank and drum storage areas to protect groundwater and surface water.

Making an Application to Discharge Trade Effluent to a Sewer (Section 16 of the Water Pollution Act):

Applications should be made to the relevant local authority on a standard application form obtained from that local authority.

Public Notice:

In contrast to making an application for a licence to discharge to waters, publication in a local newspaper of a notice of intention to apply for a licence to discharge trade effluent to sewers is **not required**. Members of the public are not given an opportunity to make representations or objections concerning a licence application, nor are they entitled to inspect documents relating to a licence application under the Local Government (Water Pollution) Acts 1973 and 1990.

Documents to be submitted:

A licence application should be accompanied by the following:

- A completed application form,
- Copies (in duplicate) of plans and other particulars necessary to describe the premises, drainage system, discharge points, etc. from which the effluent is to be discharged and to identify the point of discharge to the sewer,

- Particulars of the discharge, such as, nature, composition, temperature, volume, rate and period of discharge, proposed methods of treatment, etc.
- In the case of a trade effluent, a general description of the process or activity giving rise to the discharge.

Fees:

A fee must accompany the application, which currently (August 2003) is €380.

Decision of a Local Authority:

Once an application that includes all the proper information, submissions, etc. is submitted to the local authority, a time limit of two months is set within which a local authority must make a decision on a licence application. A local authority does not have to publish notice of its decision unlike the situation for licences of discharges to waters. However, in the case where a licence is refused or granted subject to conditions, the applicant must be informed of his right to appeal against the decision.

A local authority may at its discretion refuse to grant a licence, or grant a licence subject to conditions. The licensee must abide by any conditions attached to a licence.

The local authority may put in the licence any other appropriate condition e.g. to bund tank and drum storage areas to protect groundwater and surface water.

Appeals:

Any person, including an applicant for a licence, may appeal to An Bord Pleanála against a decision on a licence application in relation to the granting, refusal to grant or to conditions attached to a licence to discharge trade or sewage effluent to waters. Only the applicant can appeal a decision on a licence to discharge trade effluent to sewers. No other person has a right to appeal a decision. In both cases an appeal must be made within one month of a local authority's decision. A party to an appeal may request an oral hearing.

An Bord Pleanála may turn down an appeal or it may give directions to a local authority relating to the granting, refusing, revoking or alterations which should be made to conditions attached to a licence. A local authority must abide by the decision of the Board.

Registers:

Under the Act, each local authority shall keep a register of all licences granted by it for both discharge to waters and to sewers. The register must be kept at the offices of the sanitary authority and should be open to inspection by any member of the public who may make a copy of any entry on payment of a nominal fee.

Review of Licence:

The provisions for the review of licences to discharge to waters and sewers are similar except in the case to discharge to sewers there are no publicity requirements. Therefore the public are not entitled to make representations.

A licence can be reviewed:

- (a) At intervals of not less than three years,
- (b) At any time, with the consent of the person causing the discharge,
- (c) At the official request of the licensee,
- (d) At any time when a local authority has reasonable grounds for believing the authorised discharge may be a threat to public health or will make the waters unfit for other uses,
- (e) Where a material change has taken place in the nature or volume of the discharge,
- (f) Where a material change has taken place in the conditions of the receiving water,
- (g) Where further information concerning the discharge has become available,
- (h) When new water quality objectives or emission standards for effluents are prescribed under the Act,
- (i) At intervals which may be specified by any Regulations introduced under the 1977 Act.

Obligations of a local authority in relation to a licence review:

Licences should normally operate for at least three years but a licence may be reviewed within that period. Where a local authority intends to review a licence it:

- (a) Must give notice to the discharger of its intention,
- (b) Must place a notice in a newspaper circulating in the functional area of the local authority that must state that written representations relating to the review may be made within one month. (This applies to reviews of licences to discharge to waters only.)
- (c) May require a discharger to submit plans or other particulars for the purpose of the review. (If these are not submitted within three months, the review may be completed without them).
- (d) Must make available any plans or particulars submitted by the discharger for public inspection at its offices until the review or any appeal is determined.

A local authority may amend or delete any condition attached to a licence or may attach new conditions to a licence. It must then give notice of its decision to the discharger and to any person who submitted written representations. The notice will specify any new conditions, deletions or other amendments that have been made to the licence.

Compliance:

It is an offence not to comply with the conditions of a licence and any person found guilty of an offence shall be liable to a fine and/or imprisonment and a fine for each day the offence continues. Prosecution for an offence may be brought by a local authority or any other person affected.

Legal:

These notes are for guidance only and do not purport to be a legal interpretation of the (Water Pollution) Acts 1977 and 1990. The following is a list of the Acts and S.I.'s that are related to water pollution.

- S.I. No. 573/2001: Local Government (Water Pollution)(Fees) Regulations, 2001
- S.I. No. 42/1999: Local Government (Water Pollution)(Amendment) Regulations, 1999.
- S.I. No. 41/1999: Protection of Groundwater Regulations, 1999.
- S.I. No. 257/1998: Local Government (Water Pollution)(Nutrient Management Planning Consultation) Regulations, 1998.
- S.I. No. 258/1998: Local Government (Water Pollution) Act, 1977 (Water Quality Standards for Phosphorous) Regulations, 1998.
- S.I. No. 18/1996: Local Government (Water Pollution) Act, 1977, (Commencement) Order, 1996.
- S.I. No. 184/1996: Local Government (Water Pollution)(Amendment) Regulations, 1996.
- S.I. No. 43/1994: Local Government (Water Pollution) Acts, 1977 and 1990 (Control of Carbon Tetrachloride, DDT and Pentachlorophenol Discharges) Regulations, 1994.
- S.I. No. 419/1994: Environmental Protection Agency Act (Urban Waste Water Treatment) Regulations, 1994.
- S.I. No. 245/1994: Local Government (Water Pollution) Acts, 1977 and 1990. (Control of EDC, TRI, PER and TCB Discharges) Regulations, 1994.
- S.I. No. 348/1993: Local Government (Water Pollution) Acts, 1977 and 1990 (Control of Aldrin, Dieldrin, Endrin, Isodrin, HCB, HCB and CHC13 Discharges) Regulations, 1993.
- S.I. No. 270/1992: Local Government (Water Pollution)(Amendment) Act, 1990, (Commencement) Order, 1992.
- S.I. No. 271/1992: Local Government (Water Pollution) Regulations, 1992.

- S.I. No. 272/1992: Local Government (Water Pollution)(Transfer of Appeals)(Revocation) Order, 1992.
Local Government (Water Pollution) (Amendments) Act 1990.
- S.I. No. 31/1990: European Communities (Control of Water Pollution by Asbestos) Regulations, 1990.
- S.I. No. 293/1988: European Communities (Quality of Salmonid Waters) Regulations, 1988.
- S.I. No. 55/1986: Local Government (Water Pollution) Act, 1977, (Control of Hexachlorocyclohexane and Mercury Discharges) Regulations, 1986.
- S.I. No. 115/1985: Local Government (Water Pollution)(Fees) Regulations, 1985.
- S.I. No. 294/1985: Local Government (Water Pollution) Act, 1977 (Control of Cadmium Discharges) Regulations, 1985.
- S.I. No. 36/1983: Local Government (Water Pollution) Regulations, 1983.
- S.I. No. 37/1983: Local Government (Water Pollution) Act, 1977 (Transfer of Appeals) Order, 1978, (Amendment) Order, 1983.
- S.I. No. 16/1978: Local Government (Water Pollution) Act, 1977, (Sections 4 and 16)(Fixing of Dates) Order, 1978.
- S.I. No. 96/1978: Local Government (Water Pollution) Act, 1977 (Transfer of Appeals) Order, 1978.
- S.I. No. 108/1978: Local Government (Water Pollution) Regulations, 1978.
- S.I. No. 117/1977: The Local Government (Water Pollution) Act, 1977. (Commencement) Order, 1977.
Local Government (Water Pollution) Act, 1977.
- S.I. No. 172/1977: The Water Pollution Advisory Council Order, 1977.
- S.I. No. 296/1977: The Local Government (Water Pollution) Act, 1977 (Commencement) (No. 2) Order, 1977.