

**CONSULTATION ON THE TRANSPOSITION OF
THE GROUNDWATER DAUGHTER DIRECTIVE
2006/118/EC**

SUMMARY OF RESPONSES

May 2009

Further copies of this report can be obtained:

By writing to:

Ms Michelle Hull
Department of the Environment
Planning and Natural Resources Division
Water Quality
1st Floor
Calvert House
23 Castle Place
Belfast
BT1 1FY

By Fax: 028 9025 4732

By Text Phone: 028 9054 0642

By E-Mail: michelle.hull@doeni.gov.uk

This document can also be accessed through the Departments website at:
<http://www.doeni.gov.uk>

CONTENTS

1. Introduction
2. Consultation Period
3. Publication and Distribution
4. Responses
5. Queries Raised

1. Introduction

On 11 February 2009 the Department of the Environment published a consultation paper on proposals to transpose the Groundwater Daughter Directive 2006/118/EC (GWDD). The full text of the consultation paper is available on the Department's website at: www.doeni.gov.uk

The new Directive builds on and clarifies the requirements for groundwater protection in the Water Framework Directive 2000/60/EC (WFD) and combined with the existing Groundwater Directive 80/68/EEC makes up the new groundwater protection regime.

The consultation paper set out the proposed approach to transposition of the Directive in Northern Ireland and posed questions designed to elicit views on this approach.

It is the Department's intention to transpose the Directive by way of Regulation.

2. Consultation Period

The consultation period ran from 11 February 2009 to 6 May 2009.

3. Publication and Distribution

The Department invited responses from a range of organisations and individuals including MPs, MLAs, local councils, health trusts, academic and professional institutions, farming and business organisations. The consultation paper was also published on the Department's website and publicised through press notices.

4. Responses

The consultation exercise closed on the 6 May 2009. Approximately 400 organisations and individuals were consulted and 13 responses were received. A list of respondents is attached at Annex A.

Views were sought on 17 specific points:

1. Do you agree with the general proposed approach to transposition of Articles 3, 4 & 5 of the GWDD?
2. Are you aware of any hazardous substances which do not fall within the groups of List I substances of the 1980 Directive?
3. Do you consider that the proposed approach to the prevention of inputs of hazardous substances – i.e. to subject them to the controls on List I substances currently required by the 1980 Directive and the groundwater regulations (NI) 1998 – is practicable and fair?
4. Are there any particular costs and benefits which you consider relevant to this proposal?
5. Do you consider that there would be any practical consequences, costs or benefits resulting from the proposal to refer to hazardous substances by their properties?
6. Do you consider that there would be practical consequences of moving to identification and clarification of hazardous substances by a transparent process under JAGDAG, and away from a list on the face of the Regulations?
7. Do you consider that the proposed approach to hazardous substances would imply specific costs or benefits? If so, please provide details where you are able to do so.
8. Are you aware of specific non-hazardous substances which are currently not controlled under List II but which would be controlled under the new regime? If so, any information on the circumstances in which these substances are used would be helpful.

9. Are you aware of any direct discharges of non-hazardous substances? If so, your views of the costs and benefits of preventing them absolutely, or of limiting them to prevent pollution would be helpful.
10. Are there any other particular costs and benefits which you consider relevant to the proposal for dealing with non-hazardous substances?
11. Do you consider that there would be any specific practical consequences, costs or benefits arising from a change from a 4-yearly cycle of reviews to reviews based on a 6-yearly cycle or alternative frequency based on risk?
12. Do you consider that there would be practical consequences, costs or benefits if the NIEA were to determine the scope/extent of reviews based on risk?
13. Do you consider that there would be any specific practical consequences, costs or benefits arising from the proposal to explicitly extend notice powers and codes of practice to cover diffuse sources of pollution?
14. Do you consider that there would be any specific practical consequences, costs or benefits arising from allowing, where appropriate, Article 6(3) exemptions to be applied to direct discharges to groundwater? If so, please specify the exemption or exemptions to which you are referring.
15. Do you consider that there would be any specific practical consequences, costs or benefits arising from allowing, where appropriate, the exemptions at Article 11(3)(j) of the WFD in relation to direct discharges to groundwater? If so, please specify the exemption or exemptions to which you are referring.
16. Do you consider that there would be any specific practical consequences, costs or benefits arising from the removal of certain exemptions in the 1980 Directive which are not replicated in either the WFD or the GWDD?
17. Do you consider that there would be any specific practical consequences, costs or benefits arising from allowing, where

appropriate, the exemptions at Article 6(3) of the GWDD to be applied?

5. Queries Raised

Of the 13 responses received seven provided nil comment, one was supportive of the proposals and five provided substantive comment. Whilst being generally supportive of the proposed Regulations some technical issues were raised which will be taken forward by the Northern Ireland Environment Agency (NIEA). The Department will be responding to the individual respondents however, the following is a synopsis of the issues raised.

- **Air & Environmental Quality, DOE**

A query was raised of a mainly technical nature relating to particular definitions in the Regulations.

Department's response

The Department will advise that the definitions used in the Groundwater Regulations (NI) 2009 are as defined in the WFD and the GWDD. The Department will also advise the respondent that definitions may be developed further through the Joint Agency Groundwater Directive Advisory Group (JAGDAG) which was established for assessing List 1 substances. This group includes the UK environment agencies.

- **Department of Agriculture and Rural Development (DARD)**

Concerns were raised regarding: a) the need for the NIEA to produce guidance explaining the 'risk based approach' to the issue of authorisations/permits; b) the possibility of the introduction of a charging scheme; and c) impact of Regulations on Cross Compliance.

Department's response

The Department will advise DARD that: a) the new Directive does not require a major change to the current authorisation regime for the protection of groundwater in Northern Ireland. Whilst there are changes in detail there should be relatively minor practical impact. However, the Department will be considering guidance and DARD's input will be welcome; b) as outlined in the consultation paper the issue of charging will be taken forward by NIEA and, if a decision is made to charge, it will be subject to a separate consultation exercise and Ministerial decision; and c) NIEA is already engaged with the relevant officials in DARD on the Cross-Compliance issue.

- **Scottish Environment and Protection Agency (SEPA)**

SEPA raised concerns mainly of a technical nature. In particular SEPA raised concerns regarding whether or not the draft regulations transposed the requirements of the WFD with specific reference to prevent and limit the input of pollutants.

Department's response

Northern Ireland has adopted a similar approach to England and Wales on transposition. Article 6 of the GWDD clarifies the requirement to prevent inputs of hazardous substances and limit inputs of non-hazardous pollutants so as to avoid pollution. Northern Ireland adopted this approach in the draft Regulations.

- **The Consumer Council**

The Consumer Council raised concerns on the impact to consumers of the removal of the exemption for discharges of domestic effluents from isolated dwellings not connected to the sewers.

Department's response

The Department will provide the following clarification: domestic septic tanks will continue to be consented under the Water (Northern Ireland) Order 1999.

Applications for discharge consents for septic tanks are subject to a charging scheme and no material change is being made to this practice.

- **Land and Resource Management Unit, NIEA**

The concerns raised were mainly of a technical nature and will be taken forward within the NIEA.

However, it was pointed out that there could be resource implications for NIEA in managing the authorisation process and reviews based on risk.

Department's response

The Department notes the concerns raised.

ANNEX A

List of respondents

Air & Environmental Quality, DOE

Consumer Council

Council for Nature Conservation and the Countryside

Department of Agriculture and Rural Development

Department of Culture, Arts and Leisure

Department of Enterprise, Trade and Development

Disability Action

Land and Resource Management Unit, NIEA

Licensing, NIEA

Northern Ireland Judicial Appointments Commission

Northern Ireland Water

Scottish Environment Protection Agency

Ulster Society for the Protection of the Countryside