Verżjoni Elettronika

L.N. 81 of 2023

ENVIRONMENT PROTECTION ACT (CAP. 549)

Groundwater (Prohibition of Discharge to Groundwater Bodies) Regulations, 2023

IN EXERCISE of the powers conferred by articles 54 and 55 of the Environment Protection Act, the Minister responsible for the environment after consultation with the Environment and Resources Authority, has made the following regulations:-

Citation and scope.

1. (1) The title of these regulations is the Groundwater (Prohibition of Discharge to Groundwater Bodies) Regulations, 2023.

(2) The scopes of these regulations are to transpose Article 11(3)(g) of the 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 and to establish a legal prohibition of pollutant discharges to any body of groundwater.

Interpretation.

2. In these regulations, unless the context otherwise requires:

"Act" means the Environment Protection Act; Cap. 549.

"aquifer" shall have the same meaning as assigned to it in the Water Policy Framework Regulations; S.L. 549.100.

"Authority" means the Environment and Resources Authority as established by article 6 of the Act;

"body of groundwater" shall have the same meaning as assigned to it in the Water Policy Framework Regulations; S.L. 549.100.

"direct discharge to groundwater" means the discharge of pollutants into any groundwater body without percolation in the soil or subsoil, and for the purposes of these regulations shall also include any discharge of pollutants at ground surface and, or at any point which is vertically deeper than half the distance between the ground surface and the nearest water table at that point;

"indirect discharge to groundwater" means the introduction of pollutants into any body of groundwater after percolation in the soil or subsoil, and for the purposes of these regulations shall

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mean any discharge of pollutants at ground surface and, or at any point which is vertically less than half the distance between the ground surface and the nearest water table at that point;

"pollutants" means any substance which may cause pollution, as indicated in the Schedule;

S.L. 549.100.

"pollution" shall have the same meaning as assigned to it in the Water Policy Framework Regulations;

S.L. 549.100.

"protected area" shall have the same meaning as assigned to it in the Water Policy Framework Regulations;

"safeguard zone" means a part within a protected area which is subject to additional measures for the protection of water intended for human consumption, and shall consist of any such zone indicated as such in the water catchment management plan;

"saturated zone" means that part of an aquifer in which all interconnected openings within the geological formation are completely filled with water;

S.L. 549.100.

"water catchment management plan" means the plan drawn up for the Malta Water Catchment District, in accordance with the provisions of regulation 13 of the Water Policy Framework Regulations;

"water table" means the upper limit of the saturated zone.

Offences and punishments.

3. (1) Any person who undertakes, or causes to be undertaken, any activity which consists of or results in a direct discharge of pollutants to groundwater shall be guilty of an offence and shall on conviction, be liable to a fine (*multa*) not exceeding one thousand euro (€1,000).

(2) Any person who undertakes, or causes to be undertaken, any activity of disposal or tipping for the purpose of disposal, which activity consists of, or results in, or may lead to, the indirect discharge to groundwater of pollutants shall, unless the activity has been expressly authorised or permitted, be guilty of an offence and shall, on conviction be liable to a fine (*multa*) not exceeding seven hundred and fifty euro (€750).

(3) Any person who commits any illegal activity referred to in sub-regulations (1) or (2) where the discharge to groundwater occurs within a groundwater safeguard zone, shall on conviction, be liable to a fine (*multa*) of not less than five thousand euro (€5,000) and not

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exceeding ten thousand euro (€10,000).

(4) The Court may, notwithstanding any punishment to which it may impose on the offender under sub-regulations (1) to (3), order the decommissioning and, or sealing of any structure or infrastructure located above or underground used in carrying out the activity to be undertaken at the offender's expense, and may further order the confiscation of any equipment used in the carrying out of said activity:

Provided that where the activity described in sub-regulation (2) takes place at ground surface, the Court shall, notwithstanding any punishment to which it may impose on the offender, order any necessary environmental remediation including any required removal and disposal to be carried out at the offender's expense.

(5) Notwithstanding the provisions of sub-regulations (1) to (3) any activity directed at artificial recharge or augmentation of bodies of groundwater in accordance with paragraph (f) of sub-regulation (3) of regulation 12 of the Water Policy Framework Regulations for which prior authorisation has been obtained, shall not constitute an offence. S.L. 549.100.

4. (1) The provisions of articles 23 and 30(1) of the Criminal Code shall apply *mutatis mutandis* to proceedings in respect of offences against these regulations, sohowever that the disqualification of a person from holding or obtaining a license, permit or authority shall in no case be for less than one (1) year. Applicability of the Criminal Code. Cap. 9.

(2) The provisions of articles 121D and 248E(4) of the Criminal Code shall apply *mutatis mutandis* to any offence under these regulations. Cap. 9.

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SCHEDULE
(regulation 2)

Pollutants for the purposes of these regulations

The following shall be considered to be pollutants for the purposes of these regulations:

S.L. 549.100. (a) Those substances listed in Schedule VIII to the Water Policy Framework Regulations;

S.L. 549.53. (b) Those pollutants listed in the First Schedule to the Protection of Groundwater Against Pollution and Deterioration Regulations;

S.L. 549.53. (c) Those substances or indicators of pollution referred to in items 1, 2 and 3 of Part B of the Second Schedule to the Protection of Groundwater Against Pollution and Deterioration Regulations;

(d) Heat (unless the activity resulting in the discharge of heat has been expressly authorised or permitted);

(e) Any other substance at concentrations exceeding the natural background levels of the receiving body of groundwater.

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