

29 April 2003

Circular L8/03 (WSP)

To each local authority

**LICENSING OF TRADE EFFLUENT DISCHARGES TO SEWERS UNDER
SECTION 16 OF THE LOCAL GOVERNMENT (WATER POLLUTION) ACT 1977**

The purpose of this Circular is to provide guidance on the implementation of trade effluent discharge licensing under section 16 of the Local Government (Water Pollution) Act 1977 (the 1977 Act).

Application of Trade Effluent Discharge Licensing

Section 16 of the 1977 Act provides that discharges to a sewer of "any trade effluent or other matter (other than domestic sewage or storm water)" are subject to licensing by the relevant sanitary authority. The application of this provision requires interpretation of the expressions "*trade effluent*" and "*domestic sewage*".

"*Trade effluent*" is defined in section 1 of the 1977 Act as follows:

"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.

In the absence of a definition of "domestic sewage" in the 1977 Act, there is currently a lack of uniformity on the application of licensing requirements to domestic-type waste water discharges from commercial and other non-domestic premises, such as schools, etc. The provision for exempting "domestic sewage" from licensing can arguably be interpreted either as:

- applying to sewage from a household only, and which arises solely from household activities (i.e., arising from the human metabolism and day to day human activities such as washing and sanitation), or alternatively
- including also sewage from a different source, but which nevertheless is of a composition or concentration produced by a household.

The view of the Department is that the latter interpretation should prevail.

Water Services Bill

It is intended to consolidate and update the 1977 Act provisions on effluent discharge licensing under the forthcoming Water Services Bill. In the process, with a view to removing the current ambiguity, the definition of "*trade effluent*" will be augmented by an accompanying definition of "*domestic waste water*" (sewage), along the following lines:

"domestic waste water" means waste water of a composition and concentration (biological and chemical) normally discharged by a household, and which originates predominantly from the human metabolism or from day to day domestic type human activities, including washing and sanitation.

The proposed definition is based on a definition in the EU Urban Waste Water Treatment Directive¹, and will facilitate ongoing synchronisation of national and EU regulation. Sanitary authorities are requested immediately to proceed with the implementation of discharge licensing under section 16 of the 1977 Act on the basis of this proposed interpretation, rather than await enactment of the Bill.

Practical Examples

The following practical examples may help to illustrate the recommended approach to trade effluent discharge licensing in an operational context:

- Waste water discharge from shops, supermarkets, schools, etc., would not be subject to licensing, where it is only of a domestic type.
- Shops, supermarkets, etc., which are or contain a butchers might be licensable if they discharge blood to a sewer.
- Discharges from factories operating "dry processes" (i.e. with nothing going to drain from the process itself, and with discharges therefore comprising only those of domestic origin type, from staff washing and sanitation facilities, etc.) would not be subject to licensing.
- Effluent from restaurants and other food preparation outlets which, due to their fat or grease content or other such characteristic, could give rise to an additional treatment loading or increased risk of blockage would be subject to licensing.
- Other discharges which place an additional chemical or biological load on the waste water treatment system of a sanitary authority would be subject to licensing.

¹ 91/271/EEC; O.J. No. L 135/40 d.30 May 1991

It remains, of course, the prerogative of a sanitary authority to monitor, or require the monitoring of, waste water discharges from any premises, to establish in the first instance whether a particular discharge is licensable under the Act. A precautionary approach should always be applied, and a licence should be required in the case of any premises (including as appropriate a household premises) where a sanitary authority has reason to believe that a discharge from the premises is liable to fall outside the scope of "domestic waste water" as defined above.

Charging for Waste Water Treatment

Section 16(4)(b) of the 1977 Act² authorises a sanitary authority to impose licence conditions requiring payment of such amounts as it may determine,

"having regard to the expenditure incurred or to be incurred by it in monitoring, treating and disposing of discharges of trade effluent , sewage effluent or other matter to sewers in its functional area"

However, it is not considered appropriate to require licensing of effluent discharges from non-domestic premises solely for the purpose of charging for the waste water treatment services provided to those premises.

Adequate powers to charge for the provision of waste water services are already provided under the Local Government (Financial Provisions) (No. 2) Act 1983, and should be used accordingly. Such charges may reasonably be apportioned on the basis of the "water in/water out" principle, as outlined in Circular L16/02 (Water Services Pricing Policy). Alternatively, where such a correlation is not feasible, or where significant volumetric loads are placed on the capacity of a waste water collection and treatment system, an appropriate charging regime should be developed in the context of a significant user agreement (along the lines already outlined in Circular L4/02).

Conclusion

To summarise therefore:

- The main purpose of the trade effluent licensing system under the section 16 of 1977 Act is to provide a control mechanism to facilitate the management of chemical and biological loadings placed on a waste water collection and treatment system, and to control indirect discharges to waters in accordance with the Dangerous Substances Directive (76/464/EEC) and the Groundwater Directive (80/68/EEC).

² as inserted by section 12(a) of the Local Government (Water Pollution) Act 1990

- Where management of large discharge volumes only is the issue, significant user agreements should be employed.
- Charges for waste water services should be levied on the basis of the Local Government (Financial Provisions) (No. 2) Act 1983.
- Trade effluent licensing costs should be recovered separately, under section 16(4)(b) of the 1977 Act.

The views expressed in this Circular should not be regarded as a legal opinion, and any definitive interpretation of the relevant legislation will be a matter for the Courts. It is desirable however, to promote consistency on licensing in order to foster better regulation and support ongoing sustainable development. In the circumstances, sanitary authorities are requested to apply the interpretation and implementation guidelines set out above.

Any queries arising from this guidance may be addressed to the undersigned in the first instance.

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Copy to: GCCC, AMAI, CCMA, Ombudsman's Office and Regional Authorities