

| General Information  |   |
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| Ministerial Decision Type  | Miscellaneous   |
| Report Title   | Dispensation for water quality parameters granted under Article 13(1) of the Water (Jersey) Law 1972 as Amended |
| Minister   | Environment   |
| Signatory  | Minister  |
| Lead Department  | Infrastructure, Housing and Environment (IHE)   |
| Lead Directorate   | Regulatory Improvement (IHE)  |
| Ministerial Decision Summary: Public or <a href="#">Absolutely/Qualified</a> Exempt                                | Public<br>Select if more than one Absolutely/Qualified Exemption.   |
| Date decision made if different to date 'Ministerial Decision Summary' signed.                                     | 02/08/2024  |
| Report and Supplemental Report Details   |   |
| Report Author  | Kelly Whitehead   |
| Date of Report   | 14/02/2024  |
| Supplementary Report Title<br><i>(If applicable)</i>   |   |
| Supplementary Report Author<br><i>(If applicable)</i>  |   |
| Date of Supplementary Report<br><i>(If applicable)</i>   | Select Date of Supplemental Report.   |
| Ministerial Decision Report: Public or <a href="#">Absolutely/Qualified</a> Exempt                                 | Public<br>Select if more than one Absolutely/Qualified Exemption.   |
| Relevant Case/Application/URN<br><i>(Only complete if making a decision related to an appeal/case/application)</i> |   |
| Relevant Proposition Number<br><i>(Only complete if presenting Comments or if lodging an Amendment)</i>            | Insert P. number.   |
| Relevant Scrutiny Report<br><i>(Only complete if presenting a ministerial response)</i>                            | Insert S.R. number.   |
| Associated Law(s) and/or Subordinate Legislation   | Article 13(1) of the Water (Jersey) Law 1972  |
| Action required if recommendation agreed   | Department to take necessary action.  |

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| Resource Implications | There are no new financial and/or manpower implications. |
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### Introduction

Under Article 12(1) of the Law as Amended, The Jersey New Waterworks Company Limited (Jersey Water) may in writing apply for a dispensation from the requirements of Paragraph 2 of the Schedule of the Law subject to a number of conditions, including:

- that the dispensation is necessary to maintain a supply of water for domestic purposes;
- that a supply of water for those purposes cannot be maintained in the specified areas by any other reasonably practicable means; and
- that the supply of water in accordance with the dispensation does not constitute a potential danger to human health.

Under Article 13(1) of the Law as Amended, the Minister may grant an application for dispensation if, and only if, the Minister is satisfied that each of the conditions detailed above is established.

Under Article 19(1) of the Law as Amended, where any human health or public health-related issues arise in relation to applications for dispensations, the Minister is required to consult with the Minister for Health and Social Services. This consultation has been undertaken.

The dispensation continues a period of dispensation in previously in place from 1 January 2017 to 31 December 2021, with a temporary extension granted to 31 December 2023.

### Recommendation

To agree the granting of a dispensation from 01 January 2024 to 31 December 2028.

### Detail

The Minister for the Environment (The Minister) is requested to:

Grant the application for dispensation of water quality parameters, with conditions, from 01 January 2024 to 31 December 2028.

The dispensation levels for nitrate (and nitrite) have been in place since 1 January 2004 (the date of the enactment of the Law amendments). The Maximum Allowable Concentration (MAC) has remained constant over that period.

A dispensation under Article 13 shall be subject to the following conditions –

1. Jersey Water (JW) must implement the approved scheme for monitoring during the dispensation period, the quality of water supplied in the specified area;
2. JW must carry out such steps as it is, in the opinion of the Minister, reasonably practicable for the Company to take in order to secure that the supply will, at the end of the dispensation period fully satisfy the requirements of paragraph 2 of the Schedule; and

3. If required by the Minister to do so, JW shall submit a report in writing on its monitoring under this Article (including the results of the analysis of any samples taken) to the Minister.
4. A monitoring scheme under this Article may provide for the taking of samples –
  - a) on land which is not in the ownership of the Company; or
  - b) from pipes or taps which are not in the ownership of the Company.

Jersey Water has limited influence on the sources of high nitrate levels in the water it receives and utilises for public supply. The general trends in surface water streams and groundwater show a slow reduction in nitrate levels with episodic spikes associated with periods of high rainfall. This may demonstrate early signs of improvement in agricultural practice and nutrient management.

Jersey Water is mainly reliant on the collection and storage of surface water streams and thus does not always have the means of blending surface and sub-surface waters in order to comply with the requirements of Paragraph 2 of the Schedule of the Law. Levels of nitrates in source water in the Island are related to rainfall. At certain times of year there is insufficient variation in the quality of available water resources to enable the effective blending of source water to achieve the MAC of 50mg/l for nitrate.

Jersey Water has instigated various measures to reduce the concentration of nitrates, including online monitoring at water resource sites to enable blending of source water at critical times. Residual pesticides in raw waters, including the legacy pesticide oxadixyl, adds a further layer of complexity to the Company's decision making when blending available water resources.

All parties recognise that retaining the existing dispensation levels indefinitely is unsustainable and that continued dispensations will not act as a driver for further improvement. The dispensation contains more stringent conditions moving closer to continually meeting the MAC of 50mg/l.

### **Details of Dispensation**

#### **Updated Conditions**

Parameter: Nitrate (NO<sub>3</sub>)

1. No regulatory sample shall exceed 55 mg/l.
2. No more than 10% of regulatory samples shall exceed 50 mg/l.
3. No more than 10% of regulatory samples shall fail to satisfy the formula  $(\text{nitrate})/50 + [\text{nitrite}]/3 < 1$ , where the square brackets signify the concentrations in mg/l for nitrate (NO<sub>3</sub>) and nitrite (NO<sub>2</sub>) respectively.
4. Where any breach of the Maximum Allowable Concentration occurs, the Company are required to provide details of the nitrate levels in the sources that were available to them at that time and any actions taken to minimise the concentration of nitrate in supply in a manner to be agreed with the Regulator.
5. This dispensation can be modified or revoked in accordance with Article 16 of the Law

**Area of Supply:** Whole Island distribution area.

**Period of Dispensation:** 01 January 2024 to 31 December 2028.

Health implication

As required under Article 19(1), the Minister has consulted with the Minister for Health and Social Services on human or public health-related issues arising from the dispensations.

Nitrate represents a major exceedance of a health-based guideline value. It is recognised that Jersey Water is unable to control the cause of nitrate in its source water and that subsequent interventions to reduce concentrations are limited.

The Minister for Health and Social Services has confirmed that he is supportive of the application for an extension of the existing dispensation to 31 December 2028.

### **Long-term solutions**

#### **Water Strategy**

Scoping is underway to scope a Water Strategy for Jersey, focusing on water security and quality. The Water Strategy will set out direction for mitigating against nitrates and moving to a position where future dispensations will increase the stringency of conditions, with an ambition to ensure full compliance with a MAC of 50mg/l.

#### **Action for Cleaner Water Group**

The Action for Cleaner Water Group, which includes key agricultural stakeholders and Jersey Water, continues to improve and develop local agri-environmental practices to reduce diffuse nutrient and pesticide pollutants in water.