
STATUTORY RULES OF NORTHERN IRELAND

2017 No. 81

The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017

PART 5

Environmental Objectives and Programme of Measures

Procedure for setting environmental objectives and programmes of measures

12.—(1) The Department must prepare proposals for—

- (a) environmental objectives for the river basin district and the part of each international river basin district falling within Northern Ireland in accordance with regulation 13; and
- (b) a programme of measures to be applied in order to achieve those objectives, in accordance with regulation 20.

(2) In preparing proposals in accordance with paragraph (1), the Department must—

- (a) take account of the characterisation of, and economic analysis of water use in, the relevant river basin district and part of each international river basin district falling within Northern Ireland carried out or updated in accordance with regulations 5 and 7; and
- (b) take such steps as it considers appropriate to—
 - (i) publicise its proposals;
 - (ii) provide opportunities for the general public and those persons and bodies likely to be interested in or affected by its proposals to participate in discussion and the exchange of information or views in relation to the preparation of those proposals; and
 - (iii) consult the persons and bodies referred to in sub-paragraph (b)(ii) on those proposals.

(3) The Department must ensure that, for the river basin district and the part of each international river basin district falling within Northern Ireland, the environmental objectives and programme of measures are periodically reviewed and, where appropriate, updated —

- (a) by 22nd December 2021; and
- (b) subsequently, by 22nd December of the sixth year following that date and of each sixth year following that.

(4) Where a programme of measures is updated in accordance with paragraph (3), any new or revised measures must be made operational within three years of that updating.

The environmental objectives

13.—(1) The environmental objectives referred to in regulation 12 are, subject to regulations 14 to 19, the following objectives for the relevant type of water body or area.

(2) For surface water bodies, the objectives are to—

- (a) prevent deterioration of the status of each body of surface water;

- (b) protect, enhance and restore each body of surface water (other than an artificial or heavily modified body of surface water) with the aim of achieving good ecological status and (subject to paragraph (3)) good surface water chemical status (if not already achieved) by 22nd December 2021;
 - (c) protect and enhance each artificial or heavily modified body of surface water with the aim of achieving good ecological potential and (subject to paragraph (3)) good surface water chemical status (if not already achieved) by 22nd December 2021;
 - (d) aim to progressively reduce pollution from priority substances and aim to cease or phase out emissions, discharges and losses of priority hazardous substances.
- (3) The objectives in paragraph (2)(b) and (c) are to be read as though they referred to achieving good surface water chemical status—
- (a) in relation to substances 2, 5, 15, 20, 22, 23 and 28 in the table of priority substances, by 22nd December 2021;
 - (b) in relation to substances 34 to 55 in the table of priority substances, by 22nd December 2027.
- (4) For shellfish water protected areas, in addition to the objectives under paragraph (2) for the surface water bodies in which they are located, the objectives are such objectives as are necessary or desirable to improve or protect the shellfish water protected area in order to support shellfish life and growth and to contribute to the high quality of shellfish products suitable for human consumption as the Department may determine.
- (5) For groundwater bodies, the objectives are to—
- (a) prevent deterioration of the status of each body of groundwater;
 - (b) prevent or limit the input of pollutants into groundwater;
 - (c) protect, enhance and restore each body of groundwater, and ensure a balance between abstraction and recharge of groundwater, with the aim of achieving good groundwater chemical status and good groundwater quantitative status (if not already achieved) by 22nd December 2021;
 - (d) reverse any significant and sustained upward trend in the concentration of any pollutant resulting from the impact of human activity in order to progressively reduce pollution of groundwater.
- (6) For each protected area falling under regulation 10, other than a shellfish water protected area, the objective is to achieve compliance with any standards and objectives required by or under any EU instrument in accordance with which the individual area or body is protected—
- (a) by 22nd December 2021 (if not already achieved); or
 - (b) if different, any date for compliance set in that EU instrument.
- (7) Where two or more of the objectives set under this regulation apply to the same body of water, or the same part of a body of water, the most stringent objective applies.

Environmental objectives: application of regulations 15 to 19

14. Regulations 15 to 19 must be applied in a way that—
- (a) does not permanently exclude or compromise the achievement of the environmental objectives set in relation to any other body of water within the same river basin district or part of each international river basin district falling within Northern Ireland;
 - (b) is consistent with the implementation of any other EU instrument;
 - (c) guarantees at least the same level of protection (for bodies of water) as the EU instruments repealed by Article 22 of the Directive.

Designation of bodies of surface water as artificial or heavily modified bodies of surface water

15.—(1) The Department may designate a body of surface water as artificial or heavily modified if it considers that—

- (a) the changes to the hydromorphological characteristics of that body which would be necessary for achieving good ecological status would have significant adverse effects on—
 - (i) the wider environment;
 - (ii) navigation, including port facilities, or recreation;
 - (iii) activities for the purposes of which water is stored, such as drinking water supply, power generation or irrigation;
 - (iv) water regulation, flood protection, land drainage; or
 - (v) other sustainable human development activities which the Department considers are of equal importance to the matters in paragraphs (i) to (iv); and
- (b) the beneficial objectives served by the artificial or modified characteristics of the water body cannot, for reasons of technical feasibility or disproportionate costs, reasonably be achieved by other means, which are a significantly better environmental option.

(2) When the Department designates a body of surface water as artificial or heavily modified it must—

- (a) mention the designation, and the reasons for it, in the relevant river basin management plan for the river basin district or part of each international river basin district falling within Northern Ireland in which that body is located; and
- (b) review the designation when reviewing and updating the relevant river basin management plan in accordance with regulation 26.

Extended deadlines for environmental objectives

16.—(1) The deadline by which an environmental objective referred to in regulation 13(2)(b) or (c), (5)(c) or (6) must be achieved may be extended for the purposes of the phased achievement of the environmental objectives for a body of water, provided that no further deterioration occurs in the affected body of water when the conditions set out in paragraphs (2) to (5) are or will be met.

(2) All of the necessary improvements in the status of a body of water cannot reasonably be achieved within the timescales set out in the provisions of regulation 13 mentioned in paragraph (1) for one or more of the following reasons—

- (a) the scale of improvements required can only be achieved in phases exceeding the timescale, for reasons of technical feasibility;
- (b) completing the improvements within the timescale would be disproportionately expensive;
- (c) natural conditions do not allow timely improvement in the status of the body of water.

(3) Subject to paragraph (4), a deadline must not be extended beyond 22nd December 2027, except in cases where the natural conditions are such that the environmental objectives cannot be achieved by that date.

(4) Paragraph (3) does not apply to the deadline specified in regulation 13(2) for an objective of aiming to achieve good surface water chemical status—

- (a) in relation to substances 2, 5, 15, 20, 22, 23 and 28 in the table of priority substances, which may be extended until 22nd December 2033;
- (b) in relation to substances 34 to 45 in the table of priority substances, which may be extended until 22nd December 2039.

- (5) The relevant river basin management plan must set out—
- (a) the extension of the deadline, and explain the reasons for it;
 - (b) a summary of the measures to be applied to achieve the environmental objectives set pursuant to regulation 12 which are envisaged as necessary to bring the body of water progressively to the required status by the extended deadline; and
 - (c) the reasons for any significant delay in making these measures operational, and the expected timetable for their implementation.

(6) Following an extension in accordance with paragraph (1), the next update of the relevant river basin management plan, in accordance with regulation 26, must include a review of the implementation of the measures referred to in paragraph (4) and a summary of any additional measures necessary for the purposes set out in that paragraph.

Setting less stringent objectives

17.—(1) Less stringent environmental objectives than those required by regulation 13(2)(b) or (c), (4), (5)(c) or (6) may be set for a specific body of water where—

- (a) that body of water is so affected by human activity or its natural condition is such that the achievement of the environmental objectives set would not be feasible or would be disproportionately expensive; and
- (b) all the conditions in paragraphs (2) to (5) are or will be met.

(2) The environmental and socio-economic needs served by such human activity cannot be achieved by other means which are a significantly better environmental option not entailing disproportionate costs.

(3) Where the specific body of water is a body of surface water, the highest ecological and chemical status possible is achieved, given impacts that could not reasonably have been avoided due to the nature of the human activity or pollution.

(4) Where the specific body of water is a body of groundwater, the least possible changes to good groundwater status is ensured, given impacts that could not reasonably have been avoided due to the nature of the human activity or pollution.

(5) No further deterioration occurs in the status of the affected body of water.

(6) The establishment of a less stringent environmental objective, and the reasons for it, must be set out in the relevant river basin management plan.

(7) The review of the less stringent environmental objectives in accordance with regulation 12(3) must include consideration of whether a more stringent objective should be set.

Natural causes or force majeure

18.—(1) A temporary deterioration in the status of a body of water is not a breach of the environmental objectives set for it in accordance with regulation 12 if—

- (a) it is the result of—
 - (i) circumstances of natural cause or force majeure which are exceptional or could not reasonably have been foreseen, in particular extreme floods or prolonged droughts; or
 - (ii) circumstances due to accidents which could not reasonably have been foreseen; and
- (b) all the conditions in paragraphs (2) to (4) are or will be met.

(2) All practicable steps are taken—

- (i) to prevent further deterioration in the status of the affected body of water; and

(ii) so as not to compromise the achievement of the environmental objectives for any body of water not affected by the circumstances mentioned in paragraph (1)(a).

(3) The conditions under which circumstances are exceptional or could not reasonably have been foreseen, including the adoption of the appropriate indicators, are stated in the river basin management plan (or the next update of it).

(4) The measures to be taken under such exceptional circumstances are to be included in the programme of measures and will not compromise the recovery of the quality of the body of water once the circumstances are over.

(5) Where paragraph (1) applies, the effects of the circumstances mentioned in paragraph (1)(a) that are exceptional or that could not reasonably have been foreseen must be reviewed annually and, subject to regulation 16, all practicable measures must be taken with the aim of restoring the body of water as soon as reasonably practicable to its status prior to the effects of those circumstances.

(6) The next update of the relevant river basin management plan, in accordance with regulation 26, must include a summary of the effects of the circumstances mentioned in paragraph (1)(a) and of the measures taken or to be taken.

Modifications to physical characteristics of water bodies

19.—(1) A failure to achieve good groundwater status, good ecological status or, where relevant, good ecological potential, or to prevent deterioration in the status of a body of surface water or a body of groundwater is not a breach of the environmental objectives set for it in accordance with regulation 12 if—

- (a) the failure is the result of new modifications to the physical characteristics of the body of surface water or alterations to the level of the body of groundwater; and
- (b) all the conditions in paragraphs (3) to (5) are or will be met.

(2) A failure to prevent deterioration from high status to good status of a body of surface water is not a breach of the environmental objectives set for it in accordance with regulation 12 if—

- (a) the failure is the result of new sustainable development activities; and
- (b) all the conditions in paragraphs (3) to (5) are or will be met.

(3) All practicable steps are taken to mitigate the adverse impact on the status of the body of water.

(4) At least one of the following circumstances apply—

- (a) the reasons for the modifications or alterations, or for the sustainable development activities, are of overriding public interest;
- (b) the benefits to the environment and to society of achieving the environmental objectives are outweighed by the benefits of the new modifications or alterations, or of the sustainable development activities, to human health, to the maintenance of human safety, or (in the case of modifications or alterations) to sustainable development.

(5) The beneficial objectives served by the modifications or alterations, or by the sustainable development activities, of the body of water cannot, for reasons of technical feasibility or disproportionate costs, be achieved by other means which are a significantly better environmental option.

(6) Where paragraph (1) or (2) applies, the reasons for the modifications or alterations, or for the sustainable development activities, must be specifically set out and explained in the relevant river basin management plan, and the environmental objectives must be reviewed every six years.

Content of programmes of measures

20.—(1) Each programme of measures must include basic measures and, where necessary, supplementary measures (see paragraph 4).

(2) The basic measures must comply with Article 11(3) of the Directive and must, in particular, include the following—

- (a) measures required to implement the EU instruments for the protection of water listed in Schedule 3;
- (b) measures in accordance with regulation 23(1) (charges for water services);
- (c) measures to promote an efficient and sustainable water use to avoid compromising the achievement of the environmental objectives;
- (d) the measures required by regulation 8(2) (drinking water protected areas);
- (e) measures to control the abstraction of fresh surface water and groundwater, and impoundment of fresh surface water, including a register of water abstractions and a requirement for prior authorisation for abstraction and impoundment;
- (f) measures to control the artificial recharge or augmentation of any body of groundwater, including a requirement for prior authorisation;
- (g) for point source discharges liable to cause pollution, a requirement for prior regulation or prior authorisation which sets emission controls for the pollutants concerned;
- (h) for diffuse sources liable to cause pollution, measures to prevent or control the input of pollutants;
- (i) measures to address any other significant adverse impacts on the status of water, including in particular measures to ensure that the hydromorphological conditions of each body of surface water are consistent with the achievement of the required ecological status or good ecological potential for any artificial or heavily modified body of surface water;
- (j) a prohibition of direct discharges of pollutants into groundwater, except for the following discharges which may be authorised—
 - (i) injection of water containing only substances resulting from operations for exploration and extraction of hydrocarbons or mining activities, and injection of water for technical reasons, into geological formations—
 - (aa) from which hydrocarbons or other substances have been extracted; or
 - (bb) which, for natural reasons, are permanently unsuitable for other purposes;
 - (ii) reinjection of pumped groundwater from mines and quarries or associated with the construction or maintenance of civil engineering works;
 - (iii) injection of natural gas or liquefied petroleum gas for storage purposes into—
 - (aa) geological formations which, for natural reasons, are permanently unsuitable for other purposes; or
 - (bb) geological formations where there is an overriding need for security of gas supply and where the injection is such as to prevent any present or future danger of deterioration in the quality of any receiving groundwater;
 - (iv) injection of carbon dioxide streams for storage purposes into geological formations which, for natural reasons, are permanently unsuitable for other purposes, provided that such injection is—

- (aa) made in accordance with [Directive 2009/31/EC\(1\)](#) of the European Parliament and of the Council on the geological storage of carbon dioxide;
or
- (bb) excluded from the scope of that Directive under Article 2(2) of it;
- (v) construction, civil engineering and building works and similar activities on or in the ground which comes into contact with groundwater; and
- (vi) discharges of small quantities of substances for scientific purposes for characterisation, protection or remediation of a body of water limited to the amount strictly necessary for the purposes concerned;
provided such discharges do not compromise the achievement of the environmental objectives for that body of groundwater;
- (k) measures to eliminate pollution of surface waters by priority substances and to progressively reduce pollution by other substances which would otherwise prevent the achievement of the environmental objectives for bodies of surface water; and
- (l) measures required to—
 - (i) prevent significant losses of pollutants from technical installations;
 - (ii) prevent or reduce the impact of accidental pollution incidents, such as from floods.
- (3) The measures required by paragraph (2)(l) may include—
 - (a) systems to detect or give warning of such events which may lead to accidental pollution; and
 - (b) appropriate measures to reduce the risk to aquatic ecosystems from accidents which cannot reasonably be foreseen.
- (4) Where necessary, each programme of measures must include any other supplementary measures designed and implemented with the aim of achieving the environmental objectives set under regulation 12.

Implementation of programme of measures

21.—(1) The Department must ensure that the implementation of measures required in accordance with regulation 20 does not lead—

- (a) to increased pollution of marine waters;
- (b) to increased pollution of surface waters either directly or indirectly.

(2) Paragraph (1) does not apply to the extent that compliance with it would result in increased pollution of the environment as a whole.

Action where environmental objectives unlikely to be achieved

22. Where monitoring or other data indicate that the environmental objectives set for a body of water are unlikely to be achieved, the Department must take steps to ensure that—

- (a) the causes of the possible failure are investigated;
- (b) any relevant permits and authorisations are examined and reviewed as appropriate;
- (c) the monitoring programmes under regulation 11 are reviewed and adjusted as appropriate; and

(1) O.J L140, 5.06.2009, p.114, as last amended by [Directive 2011/92/EU](#) (OJ No L26, 28.1.2012, p1)

- (d) such additional measures as may be necessary to achieve those objectives (subject to the application of regulations 15 to 19) are included in the programme of measures applying to that body of water.

Recovery of costs for water service and provision of incentives for efficient water use

23.—(1) The Department and the Department for Infrastructure must, in accordance with Article 9 of the Directive, ensure—

- (a) that water pricing policies provide adequate incentives for users to use water resources efficiently; and
- (b) an adequate contribution of the different water uses, disaggregated into at least industry, households and agriculture, to the recovery of the costs of water services, based on the economic analysis required in accordance with regulation 7.

(2) In complying with paragraph (1), the Department and the Department for Infrastructure—

- (a) must take account of environmental and resource costs and the polluter pays principle;
- (b) may have regard to the social, environmental and economic effects of the cost recovery and the geographical and climatic conditions of the region or the regions affected.

(3) The Department must provide the Department for Infrastructure with any information relating to the environment which may reasonably be required to carry out its functions in accordance with this regulation.

(4) The Department for Infrastructure may, in accordance with established practices, disapply paragraph (1) in relation to a particular water-use activity, provided this does not otherwise compromise the purposes and achievement of the objectives of the Directive.

(5) The Department for Infrastructure must—

- (a) on a request being made by the Department, provide the Department with information on the steps it proposes to take in pursuance of its duties under paragraph (1); and
- (b) for the purposes of Article 9(4) of the Directive, inform the Department of any decision taken in accordance with that Article and provide the Department with a statement of the reasons for that decision.

(6) If the Department for Infrastructure decides in accordance with paragraph (4) not to fully apply the requirements of paragraph (1) in relation to a particular water use activity, the reasons for not doing so must be reported in the river basin management plan (or the next update of it).