

**2017 No. 81**

**ENVIRONMENTAL PROTECTION**

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

*Made* - - - - - *28th April 2017*

*Coming into operation* - - - - - *22nd May 2017*

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The Department of Agriculture, Environment and Rural Affairs being a department designated<sup>(a)</sup> in relation to the environment for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup>, makes the following Regulations in exercise of the powers conferred by section 2(2) of that Act.

## PART 1

### Introductory

#### Citation, commencement and application

##### 1. These Regulations—

- (a) may be cited as the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017 and shall come into operation on 22nd May 2017; and
- (b) shall apply only in relation to river basin districts identified in accordance with regulation 4(1).

#### Interpretation

##### 2.—(1) In these Regulations—

“artificial or heavily modified body of surface water” means a body of water designated as artificial or heavily modified in accordance with regulation 15;

“body of water” means a body of groundwater or a body of surface water;

“drinking water protected area” means an area of water identified in accordance with regulation 8;

“environmental objectives”, in relation to the river basin district and the part of each international river basin district falling within Northern Ireland, means the objectives set under regulation 12 in accordance with regulation 13;

“international river basin district” means a river basin district lying partly in Northern Ireland and partly in the Republic of Ireland;

“Northern Ireland” has the meaning given by section 98 of the Northern Ireland Act 1998<sup>(c)</sup>;

“principal offices” means the offices of the Department at 17 Antrim Road, Tonagh, Lisburn, BT28 3AL;

“programme of measures”, in relation to the river basin district and the part of the international river basin district falling within Northern Ireland, means the programme of measures established under regulation 12 in accordance with regulation 20;

“protected area” means an area included on a register in accordance with regulation 10;

“public body” includes Northern Ireland departments, district councils and statutory undertakers, any body established or constituted under a statutory provision and any persons or body who, as a public body and not for their own profit, act under any statutory provision for the improvement of any place or the production or supply of any commodity or service;

“relevant functions” means functions under these Regulations and, so far as material, the enactments listed in Schedule 2;

“river basin district” means the area of land and sea identified by regulation 4(1), made up of a river basin or neighbouring river basins, together with associated groundwater, transitional waters and coastal water, being the main unit for the management of river basins for the purposes of the Directive;

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(a) S.I. 2008/301; to which there are amendments not relevant to these Regulations

(b) 1972 c.68

(c) 1998 c. 47

“river basin management plan” means a plan to which Part 6 applies;

“shellfish” means any bivalve or gastropod mollusc;

“shellfish water objectives” means the objectives referred to in regulation 13(4);

“shellfish water protected area” means an area of water designated in accordance with regulation 9;

“status”, in relation to a body of water, is a reference to its surface water status or groundwater status (as the case may be);

“the 2003 Regulations” means the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003(a);

“the Department” means the Department of Agriculture, Environment and Rural Affairs;

“the Directive” means Directive 2000/60/EC (b) of the European Parliament and of the Council of 23rd October 2000 establishing a framework for Community action in the field of water policy as last amended by Commission Directive 2014/101/EU(c);

“the EQS Directive” means Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy(d) as amended by Directive 2013/39/EU of the European Parliament and of the Council(e);

“the Groundwater Directive” means Directive 2006/118/EEC of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration(f) as amended by Commission Directive 2014/80/EU(g);

“the table of priority substances” means the table in Part A of Annex I to the EQS Directive;

“water undertaker” has the same meaning as “relevant undertaker” in the Water and Sewerage Services Order (Northern Ireland) 2006(h).

(2) Expressions used in both these Regulations and the Directive and which are listed in Schedule 1 have the meaning given there.

(3) Expressions used in both these Regulations and the Directive and not otherwise defined in these Regulations have the same meaning for the purposes of these Regulations as they do for the purposes of the Directive.

(4) The Interpretation Act (Northern Ireland) 1954(i) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

### **Duties on Departments**

3.—(1) The Department and the Department for Infrastructure must exercise their relevant functions in a manner which secures compliance with the requirements of the Directive, the EQS Directive and the Groundwater Directive.

(2) Without prejudice to the generality of paragraph (1), the Department must determine an authorisation so as, in particular—

- (a) to prevent deterioration of the surface water status or groundwater status of a body of water (subject to the application of regulations 18 and 19); and
- (b) otherwise to support the achievement of the environmental objectives set for a body of water (subject to the application of regulations 16 to 19).

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(a) S.R. 2003 No. 544  
 (b) OJ L327, 22.12.2000, p.1-73  
 (c) OJ L311, 31.10.2014, p.32  
 (d) OJ L348, 24.12.2008, p.84  
 (e) OJ L226, 24.08.2013, p.1  
 (f) OJ L372, 27.12.2006, p.19  
 (g) OJ L182, 21.06.2014, p.52-55  
 (h) S.I. 2006 No. 3336 (N.I. 21)  
 (i) 1954 c.33 (N.I.)

(3) In paragraph (2) “determine an authorisation” means decide whether to grant, vary or revoke or impose conditions (and if so which conditions) on—

- (a) a consent issued under the Water (Northern Ireland) Order 1999(a);
- (b) an authorisation under the Groundwater Regulations (Northern Ireland) 2009(b);
- (c) a licence issued under the Waste Management Licensing Regulations (Northern Ireland) 2003(c);
- (d) a permit issued under the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013(d);
- (e) a registration or authorisation under the Radioactive Substances Act 1993(e);
- (f) a licence for an abstraction or impoundment under the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006(f).

(4) In exercising its relevant functions, the Department must ensure that the requirements of the Directive for the achievement of its environmental objectives are co-ordinated and must, in particular—

- (a) ensure that the programme of measures is co-ordinated for the whole of the river basin district; and
- (b) consult the relevant competent authority in the Republic of Ireland to ensure co-ordination of the programme of measures for the whole of each international river basin district.

## PART 2

### River basin districts and water bodies

#### **River basin district and international river basin districts**

4.—(1) For the purposes of these regulations, the area shown on the official map and named as “North Eastern” is identified as a river basin district and the areas shown on the official map and named as “Neagh Bann”, “North Western” and “Shannon” are identified as international river basin districts.

(2) The Department must publish the official map on its website.

(3) The Department must make the official map available to the public at its principal offices.

(4) In this regulation, “the official map” means the map of river basin districts produced by the Department and published on its website.

#### **Characterisation of river basin district and international river basin districts**

5.—(1) The Department must maintain and periodically review and (if necessary) update, in accordance with Annex II to the Directive (characterisation of waters)—

- (a) an analysis of the characteristics of each river basin district and the part of each international river basin district falling within Northern Ireland; and
- (b) a review of the impact of human activity on the status of surface water and groundwater in the river basin district and the part of each international river basin district falling within Northern Ireland.

(2) A review and any update must be done—

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- (a) S.I. 1999/662 (N.I. 6)
  - (b) S.R. 2009 No. 254
  - (c) S.R. 2003 No.493
  - (d) S.R. 2013 No.160
  - (e) 1993 c.12
  - (f) S.R. 2006 No. 482

- (a) by 22nd December 2019; and
- (b) subsequently, by 22nd December of the sixth year following that date and of each sixth year following that.

(3) In relation to a review of the characteristics of each river basin district and part of each international river basin district falling within Northern Ireland in accordance with paragraph 1(a), the Department must include in the relevant river basin management plan an explanation of the approach taken to the use of System A or B in paragraphs 1.1 and 1.2 to 1.2.4 (characterisation of surface water body types) of Annex II to the Directive.

### **Classification of water bodies**

6. The Department must classify the status of bodies of water in accordance with Annex V to the Directive.

### **Economic analysis of water use in river basin district and international river basin districts**

7.—(1) The Department must maintain and periodically review and (if necessary) update, in accordance with Annex III to the Directive (economic analysis), an economic analysis of water use in the river basin district and the part of each international river basin district falling within Northern Ireland.

(2) A review and any update must be done—

- (a) by 22nd December 2019; and
- (b) subsequently, by 22nd December of the sixth year following that date and of each sixth year following that.

(3) The Department for Infrastructure must, in accordance with a timetable established by the Department—

- (a) provide the Department with so much of the information specified in paragraph (a) of Annex III to the Directive as relates to its functions;
- (b) review and, if necessary, update that information; and
- (c) provide any such updated information to the Department.

## **PART 3**

### **Protected areas**

#### **Bodies of water used for the abstraction of drinking water**

8.—(1) The Department and the water undertaker, acting jointly, must identify any body of water (a “drinking water protected area”) within the river basin district and the part of each international river basin district falling within Northern Ireland which—

- (a) is used for the abstraction of water intended for human consumption and either—
  - (i) provides more than 10 cubic metres of water per day as an average; or
  - (ii) serves more than 50 persons; or
- (b) is intended to be used for the future abstraction of water intended for human consumption to the extent referred to in sub-paragraph (a)(i) or (ii).

(2) For each drinking water protected area, the programme of measures for the river basin district and the part of each international river basin district falling within Northern Ireland within which the body of water is located must include measures with the aim of avoiding deterioration in the quality of the water in that area, in order to reduce the level of purification treatment required in the production of drinking water abstracted from it.

(3) In this regulation and regulation 11, “water intended for human consumption” has the same meaning as in Council Directive 98/83/EC on the quality of water intended for human consumption, as amended<sup>(a)</sup>.

### **Designation of shellfish waters**

**9.**—(1) The Department may designate an area of coastal or transitional water within the river basin district and the part of each international river basin district falling within Northern Ireland, as a shellfish water protected area by including it in the relevant list.

(2) An area may not be included in the relevant list unless the Department considers it necessary or desirable to do so for the protection or development of economically significant shellfish production.

(3) In relation to a shellfish water protected area in a river basin district which is wholly in Northern Ireland, the relevant list is the list entitled Shellfish Waters (Northern Ireland) 2017 and dated 27th April 2017.

(4) In relation to a shellfish water protected area in the part of each international river basin district falling within Northern Ireland, the relevant list is the list entitled Shellfish Waters (Northern Ireland – International River Basin District) 2017 and dated 27th April 2017.

(5) The Department must periodically review and, where appropriate, revise designations made in accordance with paragraph (1).

(6) A review and any revision must be done—

- (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.

(7) The Department must—

- (a) publish the relevant list on its website; and
- (b) make the relevant list available to the public at its principal offices.

### **Register of protected areas**

**10.**—(1) The Department must, for the river basin district and the part of each international river basin district falling within Northern Ireland, maintain, review and keep up to date a register of the protected areas lying (whether wholly or partly) within the district.

(2) The register must include the following protected areas—

- (a) a drinking water protected area;
- (b) an area or body of water for the time being designated or otherwise identified as requiring special protection in accordance with any EU instrument providing for the protection of surface water and groundwater or for the conservation of habitats or species directly depending on water, or any enactment implementing such an EU instrument, including, in particular—
  - (i) areas designated for the protection of economically significant aquatic species (including shellfish water protected areas);
  - (ii) bodies of water designated as recreational waters;
  - (iii) nutrient-sensitive areas; and
  - (iv) areas designated for the protection of habitats or species where the maintenance or improvement of the status of water is an important factor in the protection of the habitats or species.

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(a) O.J. L330, 5.12.98, p.32

## PART 4

### Monitoring

#### Monitoring programmes

**11.**—(1) The Department must maintain and keep under review programmes for monitoring water status in order to establish a coherent and comprehensive overview of water status within each river basin district and the part of each international river basin district falling within Northern Ireland.

(2) The monitoring programmes must—

(a) in relation to surface water cover—

(i) the volume and level or rate of flow to the extent relevant to ecological and chemical status and ecological potential; and

(ii) ecological and chemical status and ecological potential;

(b) in relation to groundwater, cover chemical and quantitative status; and

(c) in relation to protected areas—

(i) cover any supplementary monitoring required by the EU legislation in accordance with which the area is protected;

(ii) provide for the monitoring of each drinking water protected area which provides on average more than 100m<sup>3</sup> per day of drinking water intended for human consumption;

(iii) for each shellfish water protected area, enable a reliable assessment to be made of whether the shellfish water objectives have been or will be achieved.

(3) The monitoring programme must comply with the following provisions of Annex V to the Directive—

(a) points 1.3 to 1.3.4 and 1.3.6 (monitoring of ecological status and chemical status for surface waters);

(b) point 1.3.5 (monitoring of drinking water abstraction points and habitats and species protection areas);

(c) points 1.4 to 1.4.3 (classification and presentation of ecological status, chemical status and ecological potential);

(d) points 2.2 to 2.2.4 (monitoring of groundwater quantitative status);

(e) points 2.4 to 2.4.4 (monitoring of groundwater chemical status); and

(f) points 2.4.5 and 2.5 (interpretation and presentation of groundwater status).

## 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<sup>(a)</sup> 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;

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

- (c) the monitoring programmes under regulation 11 are reviewed and adjusted as appropriate; and
- (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).

## PART 6

### River Basin Management Plans

**Application of this Part**

**24.** This Part applies in relation to—

- (a) the most recent version of each river basin management plan prepared and updated in accordance with the 2003 Regulations; and
- (b) any subsequent version of such a plan updated in accordance with regulation 26.

**River basin management plans: content**

**25.**—(1) A river basin management plan must—

- (a) relate to such period as the Department may determine, except in the case of a single plan for an international river basin district where it shall relate to such period as the

- Department may determine in consultation with the relevant competent authority in the Republic of Ireland;
- (b) include the information specified in the relevant provisions of the Directive, the Groundwater Directive (as transposed by regulation 11 of the Groundwater Regulations (Northern Ireland) 2009<sup>(a)</sup>) and the EQS Directive (as transposed by regulations 22, 24 and 26 of the Water Framework Directive (Classification, Priority Substances and Shellfish Waters) Regulations (Northern Ireland) 2015<sup>(b)</sup>) specified in paragraphs (2) to (4);
  - (c) in relation to any shellfish water protected area, include the information required by paragraph (2)(d) in relation to protected areas.
- (2) The relevant provisions of the Directive are—
- (a) Article 9(2) and (4) (recovery of the costs of water services);
  - (b) Annex II, point 1.3(vi) (exclusion of elements from the assessment of ecological status);
  - (c) the following provisions of Annex V—
    - (i) points 1.3 and 1.3.4 (confidence and precision in monitoring surface water);
    - (ii) point 2.4.1 (confidence and precision in monitoring groundwater); and
    - (iii) points 2.4.5 and 2.5 (presentation of monitoring results for groundwater);
  - (d) Annex VII, Parts A and B (elements to be covered in river basin management plans).
- (3) The relevant provisions of the Groundwater Directive are—
- (a) Article 3(5) and (6) (the threshold values and revisions to them);
  - (b) Article 4(4) (summary of assessment of groundwater chemical status);
  - (c) Article 5(4) and (5) (trend assessment and starting points);
  - (d) Annex II Part C (how groundwater threshold values have been set);
  - (e) Annex III, point 5 (maps showing exceedances).
- (4) The relevant provisions of the EQS Directive are—
- (a) Article 3(5) (information about monitoring and analysis, including alternative matrices);
  - (b) Article 4(2) (information relating to mixing zones);
  - (c) Article 5(4) (updated inventories);
  - (d) Article 6(2) (transboundary pollution).

### **Review of river basin management plans**

**26.**—(1) The Department must review and, where appropriate, update each river basin management plan in accordance with the time frame specified in Article 13(7) of the Directive.

(2) The Department must co-ordinate with the relevant competent authority in the Republic of Ireland for the purposes of reviewing and updating a single plan for an international river basin district.

(3) An updated river basin management plan must include the information specified in Part B of Annex VII to the Directive (additional information for inclusion in updated river basin management plans) in addition to the matters required to be included in accordance with regulation 25.

### **River basin management plans: public participation**

**27.**—(1) The Department must, in respect of the production of an updated river basin management plan in accordance with regulation 26—

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(a) S.R. 2009 No.254

(b) S.R. 2015 No.351



- (a) not less than three years before the relevant date, publish a statement of—
    - (i) the steps and consultation measures the Department is to take in connection with the preparation of the updated plan; and
    - (ii) the dates by which those steps and measures are to be taken;
  - (b) not less than two years before the relevant date, publish a summary of the significant water management matters which the Department considers arise for consideration in relation to the river basin district or the part of each international river basin district falling within Northern Ireland; and
  - (c) not less than one year before the relevant date, publish a draft of the updated plan.
- (2) The Department must co-ordinate with the relevant competent authority in the Republic of Ireland with the aim of producing a draft of the updated plan for the whole of each international river basin district.
- (3) Where it appears to the Department that a draft update of a single plan for an international river basin district cannot be produced, the Department must publish a draft updated plan for the part of the international river basin district falling within Northern Ireland.
- (4) The Department must publish any matter required by paragraph (1) in such manner as the Department considers appropriate for the purpose of bringing that matter to the attention of persons likely to be affected by it and, in particular, must—
- (a) make copies of the statement, summary or draft updated plan accessible to the public free of charge through its website and its principal offices;
  - (b) publish a notice—
    - (i) stating the fact of publication;
    - (ii) specifying the arrangements made for making copies of the statement, summary or draft updated plan available for public inspection; and
    - (iii) stating that any person may make representations to the Department in relation to the statement, summary or draft updated plan;
  - (c) consult the persons referred to in paragraph (6);
  - (d) take such steps as it considers appropriate to provide opportunities for the general public and the persons and bodies referred to in paragraph (6) to participate in discussion and the exchange of information or views in relation to the preparation of the draft updated plan; and
  - (e) invite the public and the persons referred to in paragraph (6) to make representations in relation to the draft updated plan.
- (5) A notice required by paragraph 4(b) must be published—
- (a) in the Belfast Gazette; and
  - (b) at least once in each of two successive weeks in one or more newspapers circulating in the river basin district or the part of the international river basin district to which the plan relates.
- (6) The persons to be consulted are—
- (a) every water undertaker any part of whose area is within the river basin district or the part of the international river basin district falling within Northern Ireland;
  - (b) the Utility Regulator for Northern Ireland;
  - (c) the Council for Nature Conservation and the Countryside;
  - (d) each district council any part of whose area is within the river basin district or the part of an international river basin district falling within Northern Ireland;
  - (e) the harbour authority for each harbour in the river basin district or the part of an international river basin district falling within Northern Ireland;
  - (f) the Department for Infrastructure;

- (g) where any part of the river basin district or the part of each international river basin district falling within Northern Ireland contains a shellfish water protected area, the Food Standards Agency in Northern Ireland;
- (h) such persons as appear to the Department in relation to the river basin district and the part of each international river basin district falling within Northern Ireland—
  - (i) to be representative of the interests of those carrying on any business which relies upon the water environment;
  - (ii) to have an interest in the protection of the water environment; or
  - (iii) to have an interest in the promotion of flood management; and
- (i) such other persons as the Department considers appropriate.

(7) The Department must take into account any representations relating to the statement, summary or draft updated plan which are received by the Department within a period of six months beginning with the date of publication of the document or such longer period as the Department may allow.

(8) In this regulation—

- (a) “harbour” and “harbour authority” have the meanings given by section 38 of the Harbours Act (Northern Ireland) 1970(a);
- (b) “the relevant date”, means the date by which the Department is next required in accordance with regulation 28(4) to publish an updated plan

#### **River basin management plans: publication**

**28.—**(1) The Department must publish an updated river basin management plan for the river basin district and the part of each international river basin district falling within Northern Ireland (or, as the case may be, a single plan).

(2) As soon as an updated river basin management plan is published, the Department must—

- (a) take such steps as it considers appropriate for the purpose of bringing the updated plan to the attention of the general public and those persons likely to be interested in or affected by it and, in particular, must—
  - (i) make copies of the updated plan accessible to the public free of charge through its website and its principal offices; and
  - (ii) publish a notice specifying the arrangements made for making copies of the updated plan accessible to the public;
- (b) publish a statement of the steps taken by the Department to comply with regulation 27(1) to (6), so far as they relate to the draft plan; and
- (c) publish a summary of the representations referred to in regulations 27(7) and any changes made to the plan in light of those representations.

(3) A notice required in accordance with paragraph (2)(a)(ii) must be published—

- (a) in the Belfast Gazette; and
- (b) at least once in each of two successive weeks in one or more newspapers circulating in the river basin district or the part of the international river basin district to which the plan relates.

(4) The Department must publish any updated plan—

- (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.

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(a) 1970 c.1 (N.I)

### **Supplementary plans**

**29.**—(1) The Department may publish supplementary plans for the purpose of supplementing the river basin management plan for a river basin district or part of each international river basin district falling within Northern Ireland.

(2) A plan published in accordance with paragraph (1) may, for example, relate to—

- (a) a particular description of body of water;
- (b) a particular catchment or geographical area;
- (c) a particular matter relating to, or aspect of, the water environment;
- (d) a particular description of user of water resources.

(3) Where a plan prepared in accordance with paragraph (1) supplements a single plan for the whole of an international river basin district, the Department must consult the relevant competent authority in the Republic of Ireland and may, where appropriate, publish a single supplementary plan.

(4) The Department must, in preparing a supplementary plan, consult such persons referred to in regulation 27(6) and such other persons likely to be interested in or affected by that plan as it considers appropriate, and must take into account any views expressed by those consulted.

### **River basin management plans: duties on public bodies**

**30.**—(1) The Department and each public body must, in exercising their functions so far as affecting the river basin district or the part of an international river basin district falling within Northern Ireland, have regard to—

- (a) the river basin management plan for that district; and
- (b) any supplementary plan published in accordance with regulation 29.

## **PART 7**

### **General**

### **Publication of information**

**31.**—(1) The Department must make accessible to the public at its principal offices—

- (a) the results of the analysis and review conducted in accordance with regulation 5 (characterisation of river basin district and international river basin districts);
- (b) maps showing bodies of water identified in accordance with regulation 8 (bodies of water used for the abstraction of drinking water);
- (c) the registers prepared in accordance with regulation 10 (register of protected areas);
- (d) the results of the monitoring programmes established in accordance with regulation 11 (monitoring);
- (e) the environmental objectives and programmes of measures established in accordance with regulation 12 (environmental objectives and programmes of measures); and
- (f) any supplementary plan published in accordance with regulation 29 (supplementary plans).

(2) The Department must make accessible to the public through its website and at its principal offices the results of the analysis conducted in accordance with regulation 7 (economic analysis of water use in river basin district and international river basin districts).

(3) The Department must ensure that an interim report describing progress in the implementation of the planned programme of measures required to be produced in accordance with Article 15(3) of the Directive is made available via a central portal which is accessible to the

public electronically in accordance with Article 7(1) of Directive 2003/4/EC of the European Parliament and of the Council on public access to environmental information(a).

### **Provision of information and assistance by public bodies**

**32.** A public body must, on being requested to do so by the Department, provide the Department with such information in its possession or under its control and such assistance as the Department may reasonably seek in connection with the exercise by the Department of any of its functions in accordance with these Regulations.

### **Guidance to public bodies**

**33.** The Department may give guidance to any public body on the implementation of the Directive, and the body to whom guidance is issued must have regard to it.

### **Revocations**

**34.** The 2003 Regulations are revoked.

**35.** The Surface Waters (Shellfish) (Classification) Regulations (Northern Ireland) 1997 are revoked(b).

**36.** The Surface Waters (Shellfish) (Classification) (Amendment) Regulations (Northern Ireland) 2009 are revoked(c).

### **Transitional provision**

**37.—**(1) Anything done, whether or not subsequently revised, in accordance with the 2003 Regulations, and which has not been superseded at the time these Regulations come into operation, continues to have effect but is taken to have been done in accordance with these Regulations.

(2) Paragraph (1) applies to, but is not limited to, the following—

- (a) the analysis of river basin characteristics and review of impact of human activity required to be undertaken by 22nd December 2004 in accordance with regulation 5 of the 2003 Regulations;
- (b) the economic analysis required to be undertaken by 22nd December 2004 in accordance with regulation 6 of the 2003 Regulations;
- (c) the identification of drinking water protected areas in accordance with regulation 7 of the 2003 Regulations;
- (d) the establishment of a register of protected areas required by 22nd December 2004 in accordance with regulation 8 of the 2003 Regulations;
- (e) the establishment of operational monitoring programmes required by 22nd December 2006 in accordance with regulation 9 of the 2003 Regulations; and
- (f) the setting of environmental objectives for each body of water and the establishment of programmes of measures required by 22nd December 2009 in accordance with regulation 11 of the 2003 Regulations.

### **Consequential amendments**

**38.** The consequential amendments in Schedule 4 have effect.

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(a) OJ L41, 14.2.2003, p26  
(b) S.R. 1997 No.489  
(c) S.R. 2009 No.61

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 28th April 2017.



*Dave Foster*

A senior officer of the Department of Agriculture, Environment and Rural Affairs

## Directive definitions

1.—(1) In the definitions in paragraph (2) (which derive from the Directive)—

- (a) a reference to an Article or Annex is a reference to an Article or Annex of the Directive (unless otherwise specified);
- (b) a reference to a regulation is a reference to a regulation in these Regulations.

(2) The definitions are—

“aquifer” means a subsurface layer or layers of rock or other geological strata of sufficient porosity and permeability to allow either a significant flow of groundwater or the abstraction of significant quantities of groundwater.

“body of groundwater” means a distinct volume of groundwater within an aquifer or aquifers.

“body of surface water” means a discrete and significant element of surface water such as a lake, a reservoir, a stream, river or canal, part of a stream, river or canal, a transitional water or a stretch of coastal water.

“coastal water” means surface water on the landward side of a line, every point of which is at a distance of one nautical mile on the seaward side from the nearest point of the baseline from which the breadth of territorial waters is measured, extending where appropriate up to the outer limit of transitional waters.

“direct discharge of pollutants into groundwater” means the discharge of pollutants into groundwater without percolation through the soil or subsoil.

“ecological status” is an expression of the quality of the structure and functioning of aquatic ecosystems associated with surface waters, classified in accordance with Annex V.

“good ecological potential” means the status of a heavily modified or artificial water body classified as such in accordance with the relevant provisions of Annex V.

“good ecological status” means the status of a body of surface water classified as such in accordance with the relevant provisions of Annex V.

“good groundwater status” means the status of a body of groundwater when both its chemical and quantitative status are at least good.

“good groundwater chemical status” means the chemical status of a body of groundwater which meets all the conditions set out in table 2.3.2 of Annex V;

“good surface water status” means the status of a body of water when both its ecological and chemical status are at least good.

“good surface water chemical status” means the chemical status required to meet the environmental objectives for surface water established in Article 4(1)(a) of the Directive, that is the chemical status achieved by a body of surface water in which concentrations of pollutants do not exceed the environmental quality standards established in Annex IX and under Article 16(7), and under other relevant EU legislation setting environmental quality standards at EU level.

“groundwater” means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil.

“groundwater status” is the general expression of the status of a body of groundwater, determined by the poorer of its quantitative status and its chemical status.

“hazardous substances” means substances or groups of substances that are toxic, persistent and liable to bio-accumulate, and other groups of substances which give rise to an equivalent level of concern.

“inland water” means all standing and flowing water on the surface of the land, and all groundwater on the landward side of the baseline from which the breadth of the territorial sea is measured.

“lake” means a body of standing inland surface water.

“pollutant” means any substance liable to cause pollution, including those listed in Annex VIII to the Directive.

“pollution” means the direct or indirect introduction, as a result of human activity, of substances or heat into the air, water or land which may be harmful to human health or the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems, which result in damage to material property, or which impair or interfere with amenities and other legitimate uses of the environment.

“priority substance” and “priority hazardous substance” means a substance identified as such in Annex I to the EQS Directive.

“quantitative status” is an expression of the degree to which a body of groundwater is affected by direct and indirect abstractions.

“river” means a body of inland water flowing for the most part on the surface of the land but which may flow underground for part of its course.

“river basin” means the area of land from which all surface run-off flows through a sequence of streams, rivers and, possibly, lakes into the sea at a single river mouth, estuary or delta.

“surface water” means inland waters, except groundwater; transitional waters and coastal waters except in respect of chemical status for which it shall also include territorial waters.

“surface water status” means the status of a body of surface water, determined by the poorer of its ecological status and chemical status.

“transitional waters” are bodies of surface water in the vicinity of river mouths which are partly saline in character as a result of their proximity to coastal waters but which are substantially influenced by freshwater flows.

“water services” means all services which provide, for households, public institutions or any economic activity:

- (a) abstraction, impoundment, storage, treatment and distribution of surface water or groundwater;
- (b) waste-water collection and treatment facilities which subsequently discharge into surface water.

“water use” means water services together with any other activity identified under Article 5 and Annex II having a significant impact on the status of water.

## SCHEDULE 2

Regulation 2(1)

### Enactments in relation to which duties in regulation 3 apply

1. The Lough Neagh Drainage Acts (Northern Ireland) 1955 and 1970(a).
2. Fisheries Act (Northern Ireland) 1966(b).
3. Section 2(2) of the European Communities Act 1972(c).
4. The Drainage (Northern Ireland) (Order) 1973(a).

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(a) 1955 c.15 (N.I.) and 1970 c. 7 (N.I.)  
(b) 1966 c.17 (N.I.)  
(c) 1972 c.68

5. Part II of the Food and Environment Protection Act 1985**(b)**.
6. Part II of the Waste and Contaminated Land (Northern Ireland) Order 1997**(c)**.
7. The Water (Northern Ireland) Order 1999**(d)**.
8. The Environment (Northern Ireland) Order 2002**(e)**.
9. The Water and Sewerage Services (Northern Ireland) Order 2006**(f)**.
10. The Sludge (Use in Agriculture) Regulations (Northern Ireland) 1990**(g)**.
11. The Surface Waters (Abstraction for Drinking Water) (Classification) Regulations (Northern Ireland) 1996**(h)**.
12. The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (Northern Ireland) 2003**(i)**.
13. The Anti-Pollution Works Regulations (Northern Ireland) 2003**(j)**.
14. The Landfill Regulations (Northern Ireland) 2003**(k)**.
15. The Waste Management Licensing Regulations (Northern Ireland) 2003**(l)**.
16. The Protection of Water Against Agricultural Nitrate Pollution Regulations (Northern Ireland) 2004**(m)**.
17. The Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2005**(n)**.
18. The Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006**(o)**.
19. The Urban Waste Water Treatment Regulations (Northern Ireland) 2007**(p)**.
20. The Water Supply (Water Quality) Regulations (Northern Ireland) 2007**(q)**.
21. The Quality of Bathing Water Regulations (Northern Ireland) 2008**(r)**.
22. The Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009**(s)**.
23. Part 4 of the Marine and Coastal Access Act 2009 (marine licensing)**(t)**.
24. The Private Water Supply Regulations (Northern Ireland) 2009**(u)**.

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- (a) S.I. 1973 No.69 (N.I. 1)
  - (b) 1985 c. 48
  - (c) S.I. 1997 No 2778 (N.I. 19)
  - (d) S.I. 1999 No. 662 (N.I. 6)
  - (e) S.I. 2002 No 3153 (N.I. 7)
  - (f) S.I. 2006 No. 3336 (N.I. 21)
  - (g) S.R. 1990 No. 245
  - (h) S.R. 1996 No. 603
  - (i) S.R. 2003 No. 319
  - (j) S.R. 2003 No. 7
  - (k) S.R. 2003 No. 496
  - (l) S.R. 2003 No. 493
  - (m) S.R. 2004 No. 419
  - (n) S.R. 2005 No. 32.
  - (o) S.R. 2006 No. 482
  - (p) S.R. 2007 No. 187
  - (q) S.R. 2007 No. 147
  - (r) S.R. 2008 No. 231
  - (s) S.R. 2009 No. 252
  - (t) 2009 c. 23
  - (u) S.R. 2009 No. 413



- 25.** The Water Environment (Floods Directive) Regulations (Northern Ireland) 2009**(a)**.
- 26.** The Groundwater Regulations (Northern Ireland) 2009**(b)**.
- 27.** The Control of Pollution (Oil Storage) Regulations (Northern Ireland) 2010**(c)**.
- 28.** The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013**(d)**.
- 29.** The Nitrates Action Programme Regulations (Northern Ireland) 2014**(e)**.
- 30.** The Phosphorus (Use in Agriculture) Regulations (Northern Ireland) 2014**(f)**.
- 31.** The Water Framework Directive (Classification, Priority Substances and Shellfish Waters) Regulations (Northern Ireland) 2015**(g)**.

## SCHEDULE 3

Regulation 20(2)(a)

### EU instruments for the protection of water

- 1.** Council Directive 91/271/EEC concerning urban waste water treatment.
- 2.** Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources.
- 3.** Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.
- 4.** Council Directive 98/83/EC on the quality of water intended for human consumption.
- 5.** Directive 2006/7/EC of the European Parliament and of the Council concerning the management of bathing water quality.
- 6.** Directive 2006/118/EC of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration.
- 7.** Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy.
- 8.** Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds.
- 9.** Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control).
- 10.** Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment.
- 11.** Directive 2012/18/EU of the European Parliament and of the Council on the control of major-accident hazards involving dangerous substances.

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(a) S.R. 2009 No. 376  
 (b) S.R. 2009 No. 254  
 (c) S.R. 2010 No. 412  
 (d) S.R. 2013 No. 160  
 (e) S.R. 2014 No. 307  
 (f) S.R. 2014 No. 308  
 (g) S.R. 2015 No.351

## Consequential amendments

**The Water Framework Directive (Classification, Priority Substances and Shellfish Waters) Regulations (Northern Ireland) 2015**

1.—(1) The Water Framework Directive (Classification, Priority Substances and Shellfish Waters) Regulations (Northern Ireland) 2015<sup>(a)</sup> are amended in accordance with paragraphs (2) to (7).

(2) In regulation 2(1)—

- (a) omit the definition of “the 2003 Regulations”;
- (b) before the definition of “biological boundary value” insert—  
““the 2017 Regulations” means the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017;”;
- (c) in the definition of “river basin district” for “the 2003 Regulations” wherever it appears substitute “the 2017 Regulations”;
- (d) for the definition of “river basin management plan” substitute—  
““river basin management plan” has the same meaning as in the 2017 Regulations;”;
- (e) for the definition of “shellfish waters” substitute—  
““shellfish waters” means a shellfish water protected area designated in accordance with regulation 9 of the 2017 Regulations;”;

(3) In regulation 2(2) for “the 2003 Regulations” substitute “the 2017 Regulations”.

(4) For regulation 3(2) substitute—

“(2) The functions listed in paragraph (1) are

- (a) analysis and review of the characterisation of each river basin district in accordance with regulation 5(2) of the 2017 Regulations;
- (b) monitoring of the status of the water environment in each river basin district in accordance with regulation 11 of the 2017 Regulations;
- (c) setting of environmental objectives for each body of surface water in each river basin district in accordance with regulation 12(1)(a) of the 2017 Regulations;
- (d) preparing programmes of measures to achieve those objectives in accordance with regulation 12(1)(b) of the 2017 Regulations.”.

(5) In regulation 20(1) for “regulation 5 of the 2003 Regulations” substitute “regulation 6 of the 2017 Regulations”.

(6) In regulation 21(1) for “regulation 5 of the 2003 Regulations” substitute “regulation 6 of the 2017 Regulations”.

(7) In regulation 21(2) for “regulation 5 of the 2003 Regulations” substitute “regulation 6 of the 2017 Regulations”.

**The Water Environment (Floods Directive) Regulations (Northern Ireland) 2009**

2.—(1) The Water Environment (Floods Directive) Regulations (Northern Ireland) 2009<sup>(b)</sup> are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2(2)—

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(a) S.R. 2015 No.351

(b) S.R. 2009 No.376

- (a) omit the definition of “the 2003 Regulations”;
  - (b) before the definition of “the Department” insert—
    - ““the 2017 Regulations” means the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017;”;
  - (c) for the definition of “international river basin district” substitute—
    - ““international river basin district” has the same meaning as in the 2017 Regulations;”.
  - (d) for the definition of “river basin district” substitute—
    - ““river basin district” has the same meaning as in the 2017 Regulations;”.
- (3) For regulation 15 (Flood hazard maps and flood risk: co-ordination with the 2003 Regulations) substitute—

**“Flood hazard maps and flood risk maps: co-ordination with the 2017 Regulations**

**15.**—(1) The development of the first flood hazard maps and flood risk maps and their subsequent reviews shall be—

- (a) co-ordinated with, and may be integrated into, the reviews required by regulations 5(2) and 7(2) of the 2017 Regulations; and
- (b) carried out in such a way that the information they contain is consistent with the information provided under the 2017 Regulations.”.

(4) For regulation 18 (Flood risk management plans: co-ordination with the 2003 Regulations) substitute—

**“Flood risk management plans: co-ordination with the 2017 Regulations**

**18.**—(1) The development of the first flood risk management plans and their subsequent reviews shall be co-ordinated with, and may be integrated into, the reviews of the river basin management plans required by regulation 26 of the 2017 Regulations.

(2) The active involvement of the parties and bodies listed in regulation 19(4) in the development of the first flood risk management plans and their subsequent reviews shall be co-ordinated, as appropriate, with the active involvement of the persons listed in regulation 27(6) of the 2017 Regulations.”.

(5) In Part 1 of Schedule 3—

- (a) in paragraph 4(e) for “the 2003 Regulations” substitute “the 2017 Regulations”;
- (b) in paragraph 8 for “the 2003 Regulations” substitute “the 2017 Regulations”.

**The Marine Strategy Regulations 2010**

**3.** In Schedule 2 to the Marine Strategy Regulations(a), for the “the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003” substitute “the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017”.

**The Groundwater Regulations (Northern Ireland) 2009**

**4.**—(1) The Groundwater Regulations (Northern Ireland) 2009(b) are amended in accordance with paragraphs (2) to (10).

(2) In regulation 2(1)—

- (a) before the definition of “the Appeals Commission” insert—

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(a) S.I. 2010/1627, to which there are amendments not relevant to these Regulations  
 (b) S.R. 2009 No.254

- ““the 2017 Regulations” means the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017;”;
- (b) for the definition of “baseline level” substitute—
- ““baseline level” means the average value measured at least during the reference years 2007 and 2008 on the basis of monitoring in accordance with a programme prepared under regulation 11 of the 2017 Regulations;”;
- (c) for the definition of “river basin district and international river basin districts” substitute—
- ““river basin district and international river basin districts” mean—
- (a) an area identified by regulation 4(1) of the 2017 Regulations, being the main unit for the management of river basins for the purposes of the Water Framework Directive and being made up of a river basin or neighbouring river basins, together with associated groundwater, transitional waters and coastal water;
- (b) the North Eastern River Basin District; or
- (c) the Neagh Bann, North Western and Shannon International River Basin Districts;”.
- (3) In regulations 9(2) and 9(3) for “subparagraph” substitute “paragraph”.
- (4) In regulations 10(1), 10(3), 10(7), 10(8), 11(1) and 23(2) for “sub-paragraph” substitute “paragraph”.
- (5) For regulation 10(4) substitute—
- “(4) The sources mentioned in paragraph (3) are—
- (a) the monitoring programmes for groundwater—
- (i) established under the provisions specified in regulation 11 of the 2017 Regulations; and
- (ii) designed in accordance with the requirements of those provisions and paragraphs 1 and 2(a) and (b) of Part A of Annex IV to the Directive; and
- (b) for the purposes of identifying trends for the first river basin management plan, any data deemed relevant by the Department and gathered before the start of the monitoring programmes under sub-paragraph (4)(a).”.
- (6) Omit regulation 10(9).
- (7) For regulation 11(2) substitute—
- “(2) The provision specified in this paragraph is regulation 26 of the 2017 Regulations.”.
- (8) For regulation 14(2) substitute—
- “(2) Each programme of measures established under regulation 12 of the 2017 Regulations must include measures to prevent the input of hazardous substances into groundwater.”.
- (9) For regulation 15(2) substitute
- “(2) Each programme of measures established under regulation 12 of the 2017 Regulations must include measures to limit the input of non-hazardous pollutants into groundwater.”.
- (10) In regulation 19(2) for “Sub paragraph” substitute “paragraph”.

### **The Quality of Bathing Waters (Northern Ireland) Regulations 2008**

**5.** In regulation 2(2) of the Quality of Bathing Waters (Northern Ireland) Regulations 2008(a) for the definition of “Water Framework Regulations” substitute—

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(a) S.R. 2008 No.231

““Water Framework Regulations” means the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017.”.

**The Chemical Analysis of Water Status (Technical Specifications) Regulations (Northern Ireland) 2011**

**6.**—(1) The Chemical Analysis of Water Status (Technical Specifications) Regulations (Northern Ireland) 2011<sup>(a)</sup> are amended in accordance with paragraphs (2) and (3).

(2) In regulation 2(1)—

(a) omit the definition of “the 2003 Regulations”;

(b) for the definition of “protected area” insert—

““protected area” has the same meaning as in regulation 10(2) of the 2017 Regulations;”;

(c) for the definition of “river basin district and international river basin districts” substitute—

““river basin district” and “international river basin districts” have the same meaning as in regulation 2(1) of the 2017 Regulations;”;

(d) after the definition of “river basin district and international river basin districts” insert—

““the 2017 Regulations” means the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017;”.

(3) In regulations 3 and 7 for “regulation 9 of the 2003 Regulations” substitute “regulation 11 of the 2017 Regulations”.

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(a) S.R. 2011 No.238

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations revoke and replace the Water Environment (Water Framework Directive) (Northern Ireland) Regulations 2003 (S.R. 2003/544) (“the 2003 Regulations”). They continue to transpose for Northern Ireland Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy) (OJ No L 327, 22.12.2000, p1) (“the WFD”) and also transpose aspects of Directive 2006/118/EEC of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration (OJ No L 372, 27.12.2006, p19) (“the GWD”) and of Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy (OJ No L 348, 24.12.2008, p84) (the EQSD”).

Regulation 3 imposes duties on the Department of Agriculture, Environment and Rural Affairs (“the Department”) and the Department for Infrastructure to carry out certain functions so as to ensure compliance with the WFD, GWD and EQSD, in particular when deciding whether to grant, vary or revoke types of authorisations which affect water quality, and to co-ordinate their actions relating to these three Directives.

Part 2 requires the identification of river basin districts, and a number of other assessments to be carried out by the Department to characterise and classify the status of water bodies in those districts, and assess the economic aspects of water use. These assessments were carried out under the 2003 Regulations, and are treated as having been carried out under these Regulations as a result of the transitional provision in regulation 37.

Part 3 makes provision for certain protected areas. Regulation 8 requires the identification of bodies of water from which drinking water is abstracted, and specifies specific measures that must be included in a programme of measures (see Part 5) to protect the quality of the water. Regulation 9 sets out a procedure for designating areas of water as “shellfish water protected areas” which will have additional objectives (see regulation 13). Regulation 10 requires a number of types of areas which are protected by other EU legislation (for example, protected habitats and birds sites), as well as the areas under regulations 8 and 9, to be included on registers of protected areas.

Part 4 sets out what monitoring of water quality the Department must undertake in relation to water bodies, including protected areas.

Part 5 provides for the establishment of environmental objectives for each water body, and programmes of measures to meet those objectives. Regulation 12 sets out a procedure for these to be proposed by the Department and then reviewed and revised at least every six years. Regulation 13 sets out what the objectives are for each type of water body. This is subject to regulations 16 and 17 which enable alternative deadlines or less stringent objectives to be set if certain conditions are met, and to regulations 18 and 19 which set out circumstances in which it is permissible not to achieve the objectives set for a water body.

The remainder of Part 5 provides for the content and application of programmes of measures. In particular, regulation 20 sets out the minimum requirements for each programme of measures, (which may also contain supplementary measures), regulation 22 explains the actions which must be taken if it is likely that the environmental objectives for a body of water will not be met and regulation 23 imposes requirements about water pricing and contributions to the recovery of costs.

Part 6 deals with river basin management plans (“RBMPs”) which must be established for each river basin district, and applies in relation to the most recent plans published under the 2003 Regulations, or (once plans have been revised) under these Regulations. Regulation 25 lists the content required in each RBMP. The plans must be reviewed and revised periodically by the Department (regulation 26) and are then subject to the consultation requirements set out in regulation 27. Regulation 30 requires public bodies (as well as the Department) to have regard to the RBMP for a river basin district (or a supplementary plan under regulation 29) when exercising functions affecting the district.

Part 7 contains miscellaneous provisions. Regulations 34 to 36 revoke the 2003 Regulations, the Surface Waters (Shellfish) (Classification) Regulations (Northern Ireland) 1997 and the Surface Waters (Shellfish) (Classification) (Amendment) Regulations (Northern Ireland) 2009 (and accordingly, Schedule 4 makes consequential amendments to other legislation). Regulation 37 contains a transitional provision ensuring that things done under the 2003 Regulations before their revocation continue to have effect as if done under these Regulations (for example, the analyses and assessments required by Part 2, and the objectives and programmes of measures established under Part 5).

Schedule 1 contains definitions from the WFD for terms used in the Regulations. Schedule 2 lists the functions in primary and secondary legislation to which the duty in regulation 3(1) (to exercise functions so as to secure compliance with the WFD, GWD and EQSD) applies. Schedule 3 contains a list of EU Directives relating to water quality in respect of which the programmes of measures must contain measures to implement. Schedule 4 contains consequential amendments to other legislation.

No impact assessment has been prepared for this instrument as no impact on the private, voluntary or business sectors is foreseen.

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