
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 298

**The Action Programme for Nitrate Vulnerable
Zones (Scotland) Regulations 2008**

PART 1

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008.

(2) These Regulations come into force on 1st January 2009.

(3) These Regulations extend to Scotland only.

Revocations and savings

2.—(1) Subject to paragraph (2), the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2003 ^{M1} and the Action Programme for Nitrate Vulnerable Zones (Scotland) Amendment Regulations 2003 ^{M2} are revoked.

(2) Paragraph 18 of the Schedule to the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2003 continues to apply until 31st December 2013.

Marginal Citations

M1 [S.S.I. 2003/51.](#)

M2 [S.S.I. 2003/169.](#)

Interpretation

3.—(1) In these Regulations—

“area of high risk” means land where there is one or more of the following:—

- a tendency to flood more often than once in 5 years,
- drainage which has been installed in a field within the previous 12 months,
- a tendency to being water-logged;

“catch crop” means a crop which has a short growing period and which is grown in a year between other crops which have a longer growing period;

“chemical fertiliser” means nitrogen fertiliser which is manufactured by an industrial process;

[^{F1}“compost” means compost that—

- (a) complies with Publicly Available Specification PAS 100:2011 (Specification for composted materials) published by the British Standards Institution, and
- (b) does not contain livestock manure;]

“cover crop” means a crop sown primarily for the purpose of taking up nitrogen from the soil and which is not harvested;

“crop requirement” means the amount of nitrogen fertiliser in kilograms (“kg”) which it is reasonable to apply to land in any year having regard to the foreseeable nitrogen requirement of the crop growing or to be grown on the land and the nitrogen supply to the crop from the soil and from other sources, including any previous applications of livestock and other organic manures;

[^{F2}“derogated farm” means a farm over which a derogation has been granted;]

[^{F2}“derogation” means a derogation from the annual limit of nitrogen in livestock manure that can be applied to land granted by the Scottish Ministers in accordance with regulations 14, 14A and 14B;]

[^{F2}“derogation application” means an application for a derogation submitted by the occupier of a farm;]

“farm” includes livestock unit;

“farmyard manure” means livestock excreta mixed with bedding material (such as straw) but does not include poultry manure other than duck manure.

[^{F3}“fertilisation accounts” means accounts providing such information relating to the management of nitrogen and phosphate inputs during the preceding calendar year as the Scottish Ministers may specify in accordance with regulation 25(3);]

“fertiliser and manure management plan” means a plan drawn up under regulation 5.

“grassland” means land on which the vegetation consists predominantly of grass species;

[^{F4}“grassland farm” means a farm where 80% or more of the agricultural area available for manure application is permanent grassland or temporary grassland (temporary implying leys of less than four years), including crops under-sown with grass but excluding grassland with 50% or more clover;]

[^{F4}“grazing livestock” means cattle (with the exclusion of veal calves), sheep, deer, goats and horses;]

“livestock” means any animal kept for use or profit;

“livestock manure” means waste products excreted by livestock or a mixture of litter and waste products excreted by livestock, even in processed form;

[^{F5}“nitrate vulnerable zone” means any area of land designated as a nitrate vulnerable zone by regulation 2 of the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2015;]

“nitrogen fertiliser” means any substance containing a nitrogen compound utilised on land to enhance growth of vegetation;

“organic manure” means–

- (a) livestock manure; and
- (b) nitrogen fertiliser, not being livestock manure or chemical fertiliser, derived from organic matter,

and includes sewage sludge and other organic wastes;

“organic manure with high available nitrogen content” means organic manure in which more than 30 per cent (“%”) of the total nitrogen content of the manure will be released in the year in which it is spread on land (such as cattle and pig slurry, poultry manure and liquid digested sludge);

[^{F6}“phosphate fertiliser” means any substance containing one or more phosphate compounds used on land to enhance growth of vegetation and includes organic manure;]

“poultry manure” means a mixture of excreta produced by poultry and bedding material, unless the contrary is specified;

“sandy”, in relation to soil, means sandy, sandy loamy and loamy sand soils where in the layer up to 40 centimetres (“cm”) deep and in the layer between 40cm and 80cm deep, there is—

- (a) more than 50 per cent by weight of sand sized particles (that is particles more than 0.06 millimetres (“mm”) and less than 2mm in diameter);
- (b) less than 18 per cent by weight of clay sized particles (that is particles less than 0.002mm in diameter); and
- (c) less than 5 per cent by weight of organic carbon;

“seasonal let” means either a lease for grazing or mowing as defined in section 3 of the Agricultural Holdings (Scotland) Act 2003 ^{M3} or a short limited duration tenancy as defined in section 4 of that Act for a period of no more than 2 years;

“shallow”, in relation to soil, means less than 40cm depth to rock;

[^{F7}“silage effluent” has the meaning given in [^{F8}Part 2 of schedule 3 of the Water Environment (Controlled Activities) (Scotland) Regulations 2011];]

“slurry” means—

- (a) excreta, including any liquid fraction, produced by livestock whilst in a yard or building; or
- (b) a mixture consisting wholly of or containing such excreta, bedding, feed residues, rainwater and washings from a building or yard used by livestock, dungsteads or manure heaps, high level slatted buildings and weeping wall structures or any combination of these, provided such excreta is present,

of a consistency that allows it to be pumped or discharged by gravity at any stage in the handling process;

[^{F9}“soil nutrient status” means soil acidity and plant available concentrations of phosphorous, potassium and magnesium in the soil;]

[^{F9}“soil type” means the soil types listed in Table 1 of Schedule 3;]

“solid manure” means organic manure which can be stored or stacked in a freestanding heap without slumping and does not produce free drainage of liquid from within the stacked material;

“surface water” has the same meaning as it has in section 3(3) of the Water Environment and Water Services (Scotland) Act 2003 ^{M4};

“water environment” has the same meaning as it has in section 3(2) of the Water Environment and Water Services (Scotland) Act 2003; and

“year” means, unless provided otherwise, any period of 12 months ending with 31st December.

(2) Expressions which are used both in these Regulations and in Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources ^{M5} are to have the same meaning in these Regulations as they have in the Directive.

(3) For the purposes of these Regulations, material is applied to land where the material is added to the land whether by spreading on the surface of the land, injecting into the land, placing below the surface of the land or mixing with the surface layers of the land, and for the purposes of regulation 14 material deposited by livestock also constitutes material applied to land.

(4) In relation to a farm only part of which is in a nitrate vulnerable zone, references in these Regulations to a farm (other than references in paragraph (5)) shall be taken as references to that part of the farm which is in the nitrate vulnerable zone.

(5) Where a seasonal let of part of a farm is granted, the existence of that let shall be disregarded in ascertaining who is the occupier of the farm for the purposes of these Regulations.

- F1** Words in reg. 3(1) inserted (15.5.2013) by [The Action Programme for Nitrate Vulnerable Zones \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/123\)](#), regs. 1(2), **3(2)**
- F2** Words in reg. 3 inserted (24.1.2010) by [The Action Programme for Nitrate Vulnerable Zones \(Scotland\) Amendment Regulations 2009 \(S.S.I. 2009/447\)](#), regs. 1, **3(2)**
- F3** Words in reg. 3 inserted (24.1.2010) by [The Action Programme for Nitrate Vulnerable Zones \(Scotland\) Amendment Regulations 2009 \(S.S.I. 2009/447\)](#), regs. 1, **3(3)**
- F4** Words in reg. 3 inserted (24.1.2010) by [The Action Programme for Nitrate Vulnerable Zones \(Scotland\) Amendment Regulations 2009 \(S.S.I. 2009/447\)](#), regs. 1, **3(4)**
- F5** Words in reg. 3(1) substituted (1.1.2016) by [The Designation of Nitrate Vulnerable Zones \(Scotland\) Regulations 2015 \(S.S.I. 2015/376\)](#), regs. 1(1), **5(2)**
- F6** Words in reg. 3 inserted (24.1.2010) by [The Action Programme for Nitrate Vulnerable Zones \(Scotland\) Amendment Regulations 2009 \(S.S.I. 2009/447\)](#), regs. 1, **3(5)**
- F7** Words in reg. 3(1) inserted (15.5.2013) by [The Action Programme for Nitrate Vulnerable Zones \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/123\)](#), regs. 1(2), **3(3)**
- F8** Words in reg. 3(1) substituted (1.1.2022) by [The Water Environment \(Controlled Activities\) \(Scotland\) Amendment Regulations 2021 \(S.S.I. 2021/412\)](#), regs. 1(2), **8**
- F9** Words in reg. 3(1) inserted (15.5.2013) by [The Action Programme for Nitrate Vulnerable Zones \(Scotland\) Amendment Regulations 2013 \(S.S.I. 2013/123\)](#), regs. 1(2), **3(4)**

Marginal Citations

- M3** 2003 asp 11.
- M4** 2003 asp 3.
- M5** O.J. No. L 375, 31.12.91, p.1.

Changes to legislation:

There are currently no known outstanding effects for the The Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008, PART 1.