

EXECUTIVE NOTE

THE ACTION PROGRAMME FOR NITRATE VULNERABLE ZONES (SCOTLAND) AMENDMENT REGULATIONS 2009 (SSI/2009/447)

Introduction

The instrument was made using the powers conferred by section 2(2) of the European Communities Act 1972^a. The instrument is subject to negative resolution procedure.

Policy Objectives

The main purpose of the instrument is to implement Commission Decision 2009/431/EC^b of 29 May 2009 granting a derogation from Council Directive 91/676/EEC^c concerning the protection of waters against pollution caused by nitrates from agricultural sources ('the derogation'). The instrument implements the derogation by amending the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008 (S.S.I. 2008/298) ('The Action Programme Regulations').

Directive 91/676/EEC limits the total amount of nitrogen (N) in livestock manure that can be applied to a farm (including that deposited by the animals themselves) in a nitrate vulnerable zone to 170 kilograms of nitrogen per hectare per year.

The derogation allows farmers who meet certain conditions to apply up to 250 kg of nitrogen per hectare per year. Farmers wishing to take advantage of the derogation will need to apply annually to the Scottish Ministers.

Farmers operating under the derogation are required to adopt additional nutrient management measures to ensure that operating at a higher livestock manure N farm limit does not adversely impact on water quality.

The main criteria of the derogation are:

- 80% of the agricultural area of the farm must be grassland;
- An application limit of 250 kg of nitrogen per hectare per year from manure from grazing livestock (defined as cattle, sheep, goats, deer and horses);
- Livestock manures may not be spread on grassland that is to be cultivated in the autumn;
- Ploughed grass must be followed by a crop with a high nitrogen requirement;
- The results of nitrogen and phosphorus analysis in soil shall be available for each farm benefiting from a derogation. Sampling and analysis must be carried out at least once every four years; and
- A phosphorus fertilisation plan must be prepared for each field on a derogated farm.

^a 1972 c.68.

^b OJ L 141, 6.6.2009, p. 48–51

^c OJ L 375, 31.12.1991, p. 1–8

Regulation 5 of the Action Programme Regulations has been amended to include additional requirements of fertiliser and manure management plans for derogated farms.

Regulation 14 is amended by the addition of sub-paragraphs (4) to (7) setting out the basis of derogation applications. Additional regulation 14A sets out the procedures for derogation applications and additional regulation 14B sets out the conditions that apply to derogated farms.

Regulation 25 is amended to include additional record keeping requirements for derogated farms.

Schedule 1 Table 1 is amended to include phosphate figures which are required to be recorded as part of every farm's derogation.

Schedule 3 Table 1 and Table 4 are revised with corrections to certain figures.

The instrument revokes regulation 3 of the Action Programme for Nitrate Vulnerable Zones (Scotland) Amendment Regulations 2008 (SSI 2008/394) and consolidates the amendments made in that regulation into this instrument.

Consultation

The consultation for The Action Programme for Nitrate Vulnerable Zones issued in November 2006 gave notice of the UK administrations' intention to apply for a derogation.

Financial Effects

It is expected that there will be no net costs to the farming industry or to individual farmers as a result of the derogation.

Scottish Government
18 December 2009