

POLICY NOTE

THE ACTION PROGRAMME FOR NITRATE VULNERABLE ZONES (SCOTLAND) AMENDMENT REGULATIONS 2013

SSI 2013/123

Introduction

1. The instrument was made using the powers conferred by section 2(2) of the European Communities Act 1972¹. The instrument is subject to negative procedure.

Policy Objectives

These regulations amend the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008 (SSI 2008/298) (“the 2008 Regulations”). The aim of the action programme is to prevent or minimise losses of nitrate from agricultural sources to surface waters and groundwater. Under the Nitrates Directive (91/676/EEC)² Member States are required to review and revise action programmes at least once every four years. Following such a review, these regulations revise the action programme set out in the 2008 Regulations. They do so by:

- Extending the provisions for the storage of livestock manure, so that those provisions apply also to silage effluent. Although the storage of silage effluent is already controlled in other legislation, EU auditors have advised that storage requirements should be included in the Action Programme.
- Adding new provisions about the placement of field heaps. The new provision will ensure that field heaps are positioned where there is minimum risk of pollution of the water environment.
- Specifying maximum nitrogen fertiliser amounts for certain crops by reference to technical notes published by the Scottish Agricultural College (now part of SRUC). This extends to crops less commonly grown in Scotland that are not mentioned in the 2008 Regulations, so that there will be numerical limits on the quantity of nitrogen fertiliser that may be applied to these crops. Provision is also made for the expected yield, upon the basis of which adjustments to the maximum permitted amount of nitrogen fertiliser may be made, to be based on evidence of historic yields previously achieved by the same crop at the same farm, although where a new crop management system is to be introduced the expected yield may be based upon evidence of historic yields from another farm using that system (provided that the other farm is within the same nitrate vulnerable zone and has similar soil).
- Revising the annual field limit of nitrogen in organic manure. It is recognised that composts with a low available N content pose a low risk of leaching. The current

¹ 1972 c.68.

² Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources. This may be viewed at: http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=31991L0676&model=guichett

limit of 250 kg N/ha for organic manure (which includes compost) in any 12 month period does not allow enough compost to be used to satisfy plant needs in some instances. The amendment therefore introduces an allowance of 500 kg/ha of N in compost in any two-year period, although the annual limit of 250 kg N/ha is retained for organic manure other than compost.

- Extending the closed periods for certain organic manures. Field trial evidence shows that a significant proportion (about 5-10%) of the N in slurry applied in January and even in February on heavier soils will leach to groundwater. A 2-week extension of the closed period to the end of January was agreed with the European Commission; often ground conditions do not permit spreading then any way. Farmers with at least the required minimum storage capacity should not need further investment.
- Adding a requirement for the occupier of a farm in a nitrate vulnerable zone to keep a record of the location of any field heaps. This clarifies that the map of the farm in the risk assessment plan required by regulation 5 of the 2008 Regulations should include the siting of temporary storage of solid manure.
- Reducing from 5 years to 3 years the period for which the records specified in regulation 25 must be retained. This amendment will reduce the burden of record keeping required by farmers.
- Increasing the specified percentages of nitrogen content taken up by a crop for given quantities of cattle slurry and pig slurry. Increasing the efficiency of the use of manure and slurry over time is an important part of meeting the objectives of the Nitrates Directive. Even with the proposed increases (from 45% to 50% for pig slurry and 35% to 40% for cattle slurry) Scotland's efficiency factors will still be among the lowest in Europe.

Financial Effects

13. The direct financial costs to the farming industry as a result of the revised action programme are considered to be minimal. The costs are associated with the management of farming practices and fertiliser use. Better management of fertilisers that increases the efficiency of their use can be a cost saving for farmers.

Consultation

14. These Regulations follow a consultation published on 29 March 2012. Responses to the consultation were analysed and the proposals have been developed and refined taking into account points raised in responses. Following this, modifications to the proposals were discussed with stakeholders, DEFRA, and the European Commission, and with Brian Pack as part of the 'Doing Better' review. The Regulations embody changes from the version of the programme consulted upon, but are no more onerous; no further formal consultation has been considered necessary.

Scottish Government
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