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DRAFT STATUTORY INSTRUMENTS

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**2019 No.**

**The Floods and Water (Amendment  
etc.) (EU Exit) Regulations 2019**

**PART 3**

Amendment of secondary legislation

**The Water Environment (Water Framework Directive) (Solway Tweed River Basin District)  
Regulations 2004**

**11.**—(1) The Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004<sup>(1)</sup> are amended as follows.

(2) In regulation 2, after paragraph (2) insert—

“(3) For the purposes of these Regulations, references to the Directive, the EQS Directive and the Groundwater Directive, or to any provision of them, are to be read in accordance with Schedule 5.”.

(3) In Schedule 1—

(a) in paragraph 4(2)(b)—

(i) for “any EU instrument” substitute “retained EU law”;

(ii) omit “, or any enactment implementing such an EU instrument”;

(b) in paragraph 5(4)(b), for “1.4 to 1.4.3” substitute “1.4.1 (excluding points (iv) to (ix)), 1.4.2 and 1.4.3”;

(c) in paragraph 7, after sub-paragraph (3B) insert—

“(3C) Where a provision referred to in sub-paragraphs (3) to (3B) refers to Article 13 of the Directive, that reference is to be read as a reference to Article 13 except in so far as it gives rise to any obligation under Article 15 of the Directive.”;

(d) in paragraph 14, for sub-paragraph (4) substitute—

“(4) The Ministers must ensure that, no more than three years after publication of an updated river basin management plan under paragraph 11—

(a) an interim report is produced describing progress in the implementation of the planned programme of measures;

(b) the report is published in such manner as the Ministers consider appropriate.”;

(e) omit paragraph 14A;

(f) in paragraph 16—

(i) in sub-paragraph (1), after “giving effect to” insert “these Regulations or any other retained EU law which transposed”;

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<sup>(1)</sup> S.I. 2004/99; relevant amending instruments are S.I. 2011/1043, 2016/139, 2018/942.

- (ii) in sub-paragraph (2), after “practical implementation of” insert “these Regulations or any other retained EU law which transposed”.
- (4) In Schedule 2, omit paragraph 1.
- (5) In Schedule 3, in the definition of “Good surface water chemical status”, for the words from “in Annex IX” to the end substitute “by the table of priority substances, and under relevant retained EU law which sets environmental quality standards”.
- (6) After Schedule 4 insert—

“SCHEDULE 5

Regulation 2(3)

Modification of directives

PART 1

Modifications of the Water Framework Directive

1. A reference to the Directive, or to any provision of it, is to be read in accordance with this Part.
2. When interpreting the Directive for the purposes of these Regulations—
  - (a) a reference to one or more member States in a provision imposing an obligation, or conferring a discretion, on a member State or member States is to be read as a reference to the relevant authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation, or able to exercise that discretion, in respect of the Solway Tweed River Basin District;
  - (b) in sub-paragraph (a), “relevant authority” means—
    - (i) the Ministers;
    - (ii) the Agencies;
    - (iii) any other public body with functions under these Regulations;
  - (c) a reference to Article 13 of the Directive is to be read as a reference to Article 13 except in so far as it gives rise to any obligation under Article 15 of the Directive;
  - (d) any reference to Community legislation (other than a reference to existing Community legislation) is to be read as if it were a reference to retained EU law;
  - (e) any reference to existing Community legislation or existing legislation is to be read as if it were a reference to Community legislation which was in force prior to 23rd October 2000;
  - (f) the Directive is to be read as if the following modifications were made to it.
3. Article 2(24) is to be read as if, for the words from “in Annex IX” to the end, there were substituted “by the table of priority substances, and under relevant retained EU law which sets environmental quality standards”.
4. Article 4 is to be read as if—
  - (a) in paragraph 1—
    - (i) in point (a)(iv), for “Article 16(1) and (8)” there were substituted “the EQS Directive”;
    - (ii) in point (b)(iii), for “paragraphs 2, 4 and 5 of Article 17” there were substituted “the Groundwater Directive”;
  - (b) in paragraph 8, the reference to other Community environmental legislation were a reference to retained EU law relating to the environment.

5. Article 7(2) is to be read as if—
  - (a) for “at Community level under Article 16” there were substituted “by retained EU law which implemented the EQS Directive”;
  - (b) for “[Directive 80/778/EEC](#) as amended by [Directive 98/83/EC](#)” there were substituted “retained EU law which implemented [Directive 98/83/EC](#) on the quality of water intended for human consumption(2)”.
6. Article 10 is to be ignored.
7. Article 11(3) is to be read as if—
  - (a) in subparagraph (a), for the words from “to implement” to the end, there were substituted “under retained EU law for the protection of water”;
  - (b) in subparagraph (j), in the fourth indent, for the words from “[Directive 2009/31/EC](#)” to the end there were substituted “Chapter 3 of Part 1 of the Energy Act 2008(3) and other retained EU law which transposed [Directive 2009/31/EC](#) on the geological storage of carbon dioxide(4)”;
  - (c) in subparagraph (k)—
    - (i) the words “in accordance with action taken pursuant to Article 16,” were omitted;
    - (ii) for “agreed pursuant to Article 16(2)” there were substituted “in Annex 10”.
8. Article 12 is to be ignored.
9. Article 15 is to be ignored.
10. Article 24 is to be ignored.
11. Annex 1 is to be ignored.
12. Annex 2 is to be read as if—
  - (a) in section 1.1, paragraph (vi) were omitted;
  - (b) in section 1.4—
    - (i) in the second paragraph—
      - (aa) after “gathered under” there were inserted “the retained EU law which implemented”;
      - (bb) in sub-paragraph (ii), the reference to information gathered under Articles 9 and 15 of [Directive 96/61/EC](#) were a reference to relevant information gathered under the retained EU law which transposed Articles 5(3), 14 and 24 of [Directive 2010/75/EC](#) on industrial emissions(5);
    - (ii) in the third paragraph—
      - (aa) after “gathered under” there were inserted “the retained EU law which implemented”;
      - (bb) in sub-paragraph (iii), the reference to [Directive 98/8/EC](#) were a reference to Regulation (EC) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products.

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(2) OJ No L 350, 5.12.1998, p 32, as last amended by Commission Directive (EU) 2015/1787 (OJ No L 260, 7.10.2015, p 6).

(3) 2008 c. 32. Chapter 3 was amended by paragraph 5 of Schedule 4 to the Marine and Coastal Access Act 2009 (c.23), section 107 of the Energy Act 2011 (c.16), Schedules 1 and 2 to the Energy Act 2016 (c.20), S.I. 2011/2453, 2015/664, 2017/524 and S.S.I. 2011/224.

(4) OJ No L 140, 5.6.2009, p 114, as last amended by Decision 2018/853/EU (OJ No L 150, 14.6.2018, p 155).

(5) OJ No L 334, 17.12.2010, p 17, as last corrected by a corrigendum (OJ No L 158, 19.6.2012, p 25).

**13.** Annex 4 is to be read as if—

- (a) in paragraph 1—
  - (i) in subparagraph (iii), for “[Directive 76/160/EEC](#)” there were substituted “retained EU law which transposed [Directive 2006/7/EC](#) concerning the management of bathing water quality<sup>(6)</sup>”;
  - (ii) in subparagraph (iv), after “under” (in both places it occurs) there were inserted “retained EU law which transposed”;
  - (iii) in subparagraph (v), for “[Directive 79/409/EEC](#)” there were substituted “retained EU law which transposed [Directive 2009/147/EC](#) on the conservation of wild birds<sup>(7)</sup>”;
- (b) in paragraph 2, the words “Community, local or national” were omitted.

**14.** Annex 5 is to be read as if—

- (a) references in tables 1.2.1 to 1.2.5 to [Directive 91/414/EC](#), in each place they occur, were references to Regulation [\(EC\) No 1107/2009](#) of the European Parliament and of the Council concerning the placing of plant protection products on the market;
- (b) references in tables 1.2.1 to 1.2.5 to [Directive 98/8/EC](#), in each place they occur, were references to Regulation [\(EC\) No 528/2012](#) of the European Parliament and of the Council concerning the making available on the market and use of biocidal products;
- (c) in section 1.3.1, in the paragraph headed “Selection of monitoring points”, the fourth indent (referring to “the Information Exchange [Decision 77/795/EEC](#)”) were omitted;
- (d) in section 1.3.5, the reference to the Drinking Water Directive were a reference to retained EU law which transposed [Directive 98/83/EC](#) on the quality of water intended for human consumption;
- (e) in section 1.4.1—
  - (i) in point (iii), for the words from “shall be established” to the end there were substituted “is as set out in Commission Decision 2018/229 establishing, pursuant to [Directive 2000/60/EC](#) of the European Parliament and of the Council, the values of the Member State monitoring system classifications as a result of the intercalibration exercise”;
  - (ii) points (iv) to (ix) were omitted;
- (f) in section 1.4.3, for the words “Annex IX, Article 16 and under other relevant Community legislation” there were substituted “Annex 1 to the EQS Directive and under relevant retained EU law”;
- (g) in the table in section 2.3.2, in the column for “good status”, for “other relevant Community legislation in accordance with Article 17” there were substituted “the Groundwater Directive”;
- (h) in section 2.4.5, the words “Without prejudice to the Directives concerned,” were omitted.

**15.** Annex 6 is to be read as if Part A were omitted.

**16.** Annex 7 is to be read as if, in Part A—

- (a) in point 7.1, for “to implement Community legislation” there were substituted “under retained EU law”;
- (b) point 10 were omitted.

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(6) OJ No L 64, 4.3.2006, p 37, as last amended by Council [Directive 2013/641/EU](#) (OJ No L 353, 28.12.2013, p 8).

(7) OJ No L 20, 26.1.2010, p 7, as last amended by Council [Directive 2013/17/EU](#) (OJ No L 158, 10.6.2013, p 193).

## PART 2

### Modifications of the Groundwater Directive

**17.** A reference to the Groundwater Directive, or to any provision of it, is to be read in accordance with this Part.

**18.** When interpreting the Groundwater Directive for the purposes of these Regulations—

- (a) a reference to one or more member States in a provision imposing an obligation, or conferring a discretion, on a member State or member States is to be read as a reference to the relevant authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation, or able to exercise that discretion, in respect of the Solway Tweed River Basin District;
- (b) in sub-paragraph (a), “relevant authority” means—
  - (i) the Ministers;
  - (ii) the Agencies;
  - (iii) any other public body with functions under these Regulations;
- (c) any reference to Community legislation is to be read as if it were a reference to retained EU law;
- (d) the Groundwater Directive is to be read as if the following modifications were made to it.

**19.** Article 3 is to be read as if—

- (a) paragraphs 3 and 4 were omitted;
- (b) in paragraph 5, for “submitted” there were substituted “produced”.

**20.** Article 5 is to be read as if, in each of paragraphs 4 and 5, for “submitted” there were substituted “produced”.

**21.** Article 6(4) is to be read as if the words after “paragraph 3” were omitted.

**22.** Article 12 is to be ignored.

**23.** Annex 1 is to be read as if—

- (a) in footnote 1 to the table in point 1, for “Article 2 of [Directive 91/414/EEC](#) and in Article 2 of [Directive 98/8/EC](#)” there were substituted “Article 2 of Regulation [\(EC\) No 1107/2009](#) of the European Parliament and of the Council concerning the placing of plant protection products on the market and Article 3 of Regulation [\(EC\) No 528/2012](#) of the European Parliament and of the Council concerning the making available on the market and use of biocidal products”;
- (b) in point 2, for “[Directive 91/414/EEC](#) or [Directive 98/8/EC](#)” there were substituted “Regulation [\(EC\) No 1107/2009](#) of the European Parliament and of the Council concerning the placing of plant protection products on the market or Regulation [\(EC\) No 528/2012](#) of the European Parliament and of the Council concerning the making available on the market and use of biocidal products”.

**24.** Annex 2 is to be read as if, in Part C—

- (a) for “submitted” there were substituted “produced”;
- (b) in point (c)(iii), for “at national, Union or” there were substituted “in retained EU law or other national legislation, or at”.

## PART 3

### Modifications of the Environmental Quality Standards Directive

**25.** A reference to the EQS Directive, or to any provision of it, is to be read in accordance with this Part.

**26.** When interpreting the EQS Directive for the purposes of these Regulations—

- (a) a reference to one or more member States in a provision imposing an obligation, or conferring a discretion, on a member State or member States is to be read as a reference to the relevant authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation, or able to exercise that discretion, in respect of the Solway Tweed River Basin District;
- (b) in sub-paragraph (a), “relevant authority” means—
  - (i) the Ministers;
  - (ii) the Agencies;
  - (iii) any other public body with functions under these Regulations;
- (c) the EQS Directive is to be read as if the following modifications were made to it.

**27.** Article 3 is to be read as if—

- (a) each reference to a provision of Commission [Directive 2009/90/EC](#) laying down, pursuant to [Directive 2000/60/EC](#) of the European Parliament and of the Council, technical specifications for chemical analysis and monitoring of water status were modified in accordance with paragraph 26(a);
- (b) paragraph 5a were omitted.

**28.** Article 4 is to be read as if—

- (a) in paragraph 2(b), the words from “, such as” to the end were omitted;
- (b) in paragraph 3(b), the reference to Community law were a reference to retained EU law.

**29.** Article 5 is to be read as if—

- (a) references to [Directive 91/414/EEC](#) were references to Regulation [\(EC\) No 1107/2009](#) of the European Parliament and of the Council concerning the placing of plant protection products on the market;
- (b) paragraph 3 were omitted.

**30.** The following Articles are to be ignored—

- (a) Article 6(1)(c) and (2);
- (b) Article 7a;
- (c) in Article 8a(1), the final sentence of the second subparagraph;
- (d) Article 8b(4);
- (e) Article 8c;
- (f) Article 13.”.