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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 Nitrate Pollution Prevention Regulations 2015**

**16.**—(1) The Nitrate Pollution Prevention Regulations 2015(1) are amended as follows.

(2) In regulation 2, at the end insert—

“(4) For the purposes of these Regulations, a reference to an EU Directive is to be read as if any reference in that Directive to one or more member States in a provision imposing an obligation on, or conferring a discretion on, a member State or member States were a reference to the 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 England.

(5) In paragraph (4), the “authority” means the Agency or the Secretary of State.”.

(3) In regulation 4—

(a) in paragraph (2)(b), for “Council [Directive 98/83/EC](#)” substitute “the Water Supply (Water Quality) Regulations 2016(2) and the Private Water Supplies (England) Regulations 2016(3)”;

(b) at the end insert—

“(7) For the purposes of paragraph (5)(a), the reference to Annex 1 to Council [Directive 91/676/EEC](#)(4) is to be read as if—

(a) each reference in it to Article 5 of that Directive were to regulations 7 to 35 of these Regulations;

(b) in point A(1), for the words from “more than” to “[Directive 75/440/EEC](#)” there were substituted “a concentration of nitrates greater than 50 mg/l”.”.

(4) In regulation 36—

(a) after paragraph (2) insert—

“(2A) For the purposes of paragraph (2), paragraph 2(b) of Annex 3 to Council [Directive 91/676/EEC](#) is to be read as if the third subparagraph were omitted.”;

(b) at the end insert—

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(1) [S.I. 2015/668](#), relevant amending instruments are [S.I. 2016/1154](#), [2016/1190](#), [2018/575](#).

(2) [S.I. 2016/614](#), amended by [S.I. 2017/506](#), [2018/378](#), [2018/706](#).

(3) [S.I. 2016/618](#), amended by [S.I. 2017/506](#), [2018/707](#).

(4) OJ No L 375, 31.12.1991, p 1, as last amended by Regulation [\(EC\) No 1137/2008](#) (OJ No L 311, 21.11.2008, p 1).

“(7) As part of the review conducted under regulation 39, the Secretary of State must review the overall position of derogations granted under this regulation against—

(a) objective criteria, including—

(i) the existence, in designated nitrate vulnerable zones, of long growing seasons, crops with high nitrogen uptake, and soils with exceptionally high denitrification capacity;

(ii) the net rainfall in designated nitrate vulnerable zones;

(b) the following objectives—

(i) reducing water pollution caused or induced by nitrates from agricultural sources;

(ii) preventing further such pollution.”.

(5) In the heading of regulation 39, at the end insert “of the action programme”.

(6) After regulation 40, insert—

**“Implementation report**

**40A.**—(1) The Secretary of State must prepare a report on the implementation of these Regulations for each relevant period.

(2) A report under paragraph (1) must contain—

(a) details of any steps taken to promote good agricultural practice;

(b) the map published under regulation 3(2), accompanied by a statement detailing the nature of, and reasons for, any revisions to the designated nitrate vulnerable zone since the end of the previous reporting period;

(c) a summary of the monitoring results obtained by the Agency under regulation 4;

(d) a summary of the most recent review conducted under regulation 39.

(3) A report under paragraph (1) must be published—

(a) in such manner as the Secretary of State considers appropriate;

(b) by the last day of the six month period beginning with the day on which the relevant period ends.

(4) In this regulation, “relevant period” means the period of four years beginning with 1st January 2016 and each successive period of four years.”.