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STATUTORY INSTRUMENTS

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**2009 No. 3104**

**The Water Resources Act 1991 (Amendment)  
(England and Wales) Regulations 2009**

**Amendment of the Water Resources Act 1991**

3.—(1) Section 93 (water protection zones) is amended as follows.

(2) For subsection (1) substitute—

“(1) Where the appropriate national authority considers that either or both of subsections (2) and (2A) is satisfied in relation to any area, it may by order make provision—

- (a) designating that area as a water protection zone; and
- (b) regulating the carrying on in that zone of such activities as may be specified or described in the order.”.

(3) After subsection (1) insert—

“(1A) An order under this section may regulate activities carried on in a water protection zone by—

- (a) prohibiting or restricting the carrying on of those activities in the zone; or
- (b) imposing requirements on persons who carry on those activities in the zone to take such steps as may be specified or described in the order.

(1B) The power under subsection (1A)(b) is exercisable only for the purpose of enabling the United Kingdom to comply with its obligations under the Water Framework Directive in relation to any applicable environmental objectives.”.

(4) In subsection (2)—

- (a) the words “(subject to subsection (3) below)” are repealed; and
- (b) for “Secretary of State” substitute “appropriate national authority”.

(5) After subsection (2), insert—

“(2A) For the purposes of subsection (1) this subsection is satisfied in relation to any area if it is appropriate, with a view to preventing or limiting any harm that is being or is likely to be caused to controlled waters, to regulate the carrying on in that area of activities which the appropriate national authority considers are likely to result in such harm.

(2B) In subsection (2A) “harm” means any adverse impact on the condition of any hydromorphological quality element affecting the controlled waters that would be likely to prevent the achievement of any environmental objectives applicable to those waters (whether by itself or in combination with other factors), other than an adverse impact caused by the entry into controlled waters of any poisonous, noxious or polluting matter.

(2C) In subsection (2B) “environmental objectives” and “hydromorphological quality element” have the same meaning as in the Water Framework Directive.”.

(6) Subsection (3) is repealed.

(7) For paragraph (a) of subsection (4) substitute—

- “(a) confer power on the Agency to determine for the purposes of the order—

- (i) the circumstances in which the carrying on of any activities is prohibited or restricted;
- (ii) the circumstances in which any requirement to take steps is imposed on persons who carry on activities;
- (iii) the activities to which any such prohibition or restriction or any such requirement (as the case may be) applies.”.

(8) For paragraph (c) substitute—

“(c) provide that a contravention of a prohibition or restriction contained in the order or of a condition of a consent given for the purposes of any such prohibition or restriction or a failure to comply with a requirement to take steps contained in the order shall be an offence;”.

(9) In paragraph (f) of subsection (4), for “Secretary of State” substitute “appropriate national authority”.

(10) After subsection (4) insert—

“(4A) The maximum penalties for an offence created by subsection 4(c) shall not exceed—

- (a) on summary conviction, a term of imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum (or both); and
- (b) on conviction on indictment, imprisonment for a term not exceeding two years or a fine (or both).”.

(11) For subsection (5), substitute—

“(5) In this section, “appropriate national authority” means—

- (a) in relation to England, the Secretary of State; and
- (b) in relation to Wales, the Welsh Ministers.

(6) The power to make an order under this section shall be exercisable by statutory instrument subject—

- (a) in the case of an order made by the Secretary of State, to annulment in pursuance of a resolution of either House of Parliament; and
- (b) in the case of an order made by the Welsh Ministers, to annulment in pursuance of a resolution of the National Assembly for Wales,

but neither the Secretary of State nor the Welsh Ministers shall make such an order except on an application made by the Agency in accordance with Schedule 11 to this Act and otherwise in accordance with that Schedule.

(7) In this section—

“England” includes the territorial sea adjacent to England not forming any part of Wales and “Wales” has the meaning given by section 158(1) of the Government of Wales Act 2006;

“the Water Framework Directive” means Directive [2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy<sup>(1)</sup>.”.

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(1) OJ No L327, 22.12.2000, p.1. Directive [2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy.