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STATUTORY INSTRUMENTS

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**2019 No. 112**

**The Water (Amendment) (Northern Ireland) (EU Exit) Regulations 2019**

**PART 3**

Amendment of subordinate legislation

**The Water Framework Directive (Classification, Priority Substances and Shellfish Waters) Regulations (Northern Ireland) 2015**

**11.**—(1) The Water Framework Directive (Classification, Priority Substances and Shellfish Waters) Regulations (Northern Ireland) 2015 <sup>M1</sup> are amended as follows.

(2) After regulation 2(3), insert—

“(4) For the purposes of these Regulations, references to the Water Framework Directive, the Directive and Directive [2009/90/EC](#) or to a provision of one of those Directives, are to be read in accordance with Schedule 6 (Modifications of Directives) <sup>M2</sup>.”.

(3) In regulation 15—

- (a) in paragraph (1), after “the Commission” insert “, immediately before exit day,”;
- (b) in paragraph (2)(b), at the end insert “, immediately before exit day”;
- (c) in paragraph (4)(b), after “lists” insert “ produced immediately before exit day”.

(4) For regulation 16 substitute—

“**16.** The Department may opt not to undertake additional monitoring under the watch list mechanism for a particular substance if the Department has sufficient, comparable, representative and recent monitoring data for the substance from existing monitoring programmes or studies.”.

(5) In regulation 17—

- (a) in paragraph (1)—
  - (i) for “report” substitute “ publish”;
  - (ii) omit “to the Commission”;
- (b) in paragraph (2), for “reports” substitute “ results”.

(6) In regulation 20(5) and 21(4) omit “in accordance with the requirements of the Water Framework Directive”.

(7) For regulation 24(2), substitute—

“(2) The Department must record measures it has taken to address the issue of transboundary pollution in the relevant river basin management plan.”.

(8) Omit regulation 25.

(9) After Schedule 5, insert—

“SCHEDULE 6

Regulation 2(4)

Modifications of Directives

**PART 1**

Modifications of the Water Framework Directive

1. A reference to the Water Framework Directive, or to any provision of it, is to be read in accordance with this Part.

2. When interpreting the Water Framework 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 Department;
- (b) a reference to Article 13 of the Water Framework Directive is to be read as if it were a reference to Article 13 except in so far as it gives rise to any obligation under Article 15 of that Directive;
- (c) 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;
- (d) 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;
- (e) the Water Framework Directive is to be read as if the following modification 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 3 is to be read as if—

- (a) in paragraph 3—
  - (i) “the territory of more than one Member State” were a reference to “Northern Ireland and the Republic of Ireland”;
  - (ii) the second sentence was omitted;
  - (iii) for “Each” substitute “ A ”;
- (b) in paragraph 4—
  - (i) “the Member States concerned” were a reference to “Northern Ireland and the Republic of Ireland”;
  - (ii) the third sentence was omitted;
- (c) omit paragraphs 5, 8 and 9.

5. 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 Directive ”;

- (ii) in point (b)(iii), for “paragraphs 2, 4 and 5 of Article 17” there were substituted “ Directive [2006/118/EEC](#) of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration <sup>M3</sup>”;
  - (b) in paragraph 8, the reference to “other Community environmental legislation” were a reference to retained EU law relating to the environment.
6. Article 7(2) is to be read as if—
- (a) for “at Community level under Article 16” there were substituted “ by retained EU law implementing the Directive ”;
  - (b) for “Directive [80/778/EEC](#) as amended by Directive [98/83/EC](#)” there were substituted “ retained EU law implementing Directive [98/83/EC](#) ”.
7. Article 11(3) is to be read as if—
- (a) in subparagraph (a), for the words from “required to implement” to the end, substitute “ under retained EU law for the protection of water ”;
  - (b) in subparagraph (j), in the fourth indent, for the words from “Directive” to the end there were substituted “ Chapter 3 of Part 1 of the Energy Act 2008 and other retained EU law which transposed Directive [2009/31/EC](#) on the geological storage of carbon dioxide ”;
  - (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” there were substituted “ in Annex 10 ”.
8. In Article 13—
- (a) paragraph 2 is to be read as if for “the Community” and “their territory” there were substituted “ Northern Ireland ”;
  - (b) paragraph 3 is to be read as if for “the Community” and “the territory of the Member State concerned” there were substituted “ Northern Ireland ”.
9. Article 15 is to be read as if—
- (a) paragraphs 1 and 2 were omitted;
  - (b) in paragraph 3, for “submit” there were substituted “ produce ”.
10. 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 subparagraph (ii), the reference to Articles 9 and 15 of Directive [96/61/EC](#) were a reference to Articles 5(3), 14 and 24 of Directive [2010/75/EC](#) of the European Parliament and of the Council on industrial emissions <sup>M4</sup>;
    - (ii) in the third paragraph—
      - (aa) after “gathered under” there were inserted “ the retained EU law which implemented ”;

- (bb) in subparagraph (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;
- (c) in section 2.3 the reference to “two or more Member States” were a reference to “Northern Ireland and the Republic of Ireland”.
- 11.** 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) 1107/2009 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) 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 unnumbered 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 <sup>M5</sup>;
- (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 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 Directive and under other 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 “ Directive 2006/118/EEC of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration <sup>M6</sup> as last amended by Commission Directive 2014/80/EU <sup>M7</sup> ”;
- (h) in section 2.4.5, the words “Without prejudice to the Directives concerned” were omitted.
- 12.** Annex 6 is to be read as if Part A were omitted.
- 13.** Annex 7 is to be read as if, in Part A—
- (a) in point 7.1, for “implement Community legislation” there were substituted “ under retained EU law ”;
- (b) point 10 were omitted.

## PART 2

### Modifications of the Directive

1. A reference to the Directive or to any provision of the Directive is to read in accordance with this Part.
2. When interpreting the Directive for the purpose 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 Department;
  - (b) the Directive is to be read as if the following modifications were made to it.
3. Article 4 is to be read as if—
  - (a) in paragraph 3(b)—
    - (i) the reference to “Community law” is to be read as if it were a reference to retained EU law;
    - (ii) the words “and Article 10 of Directive 2000/60/EC” were omitted.

## PART 3

### Modifications of Directive 2009/90/EC

1. A reference to Directive 2009/90/EC, or to any provision of it, is to be read in accordance with this Part.
2. When interpreting Directive 2009/90/EC for the purposes of these Regulations, 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 Department.”.

#### Commencement Information

- 11** Reg. 11 in force on IP completion day, see reg. 1(1) and 2020 c. 1, Sch. 5 para. 1(1), see reg. 1(1)

#### Marginal Citations

- M1** S.R. 2015 No. 351, amended by S.R. 2017 No. 81.
- M2** Regulation 11(9) of these Regulations inserts Schedule 6.
- M3** OJ No L 372, 27.12.2006, p. 19, as last amended by Commission Directive 2014/80/EU (OJ No L 182, 21.6.2014, p. 52).
- M4** OJ No L 334, 17.12.2010, p.17, as last corrected by a corrigendum (OJ No L 158, 19.6.2012, p. 25).
- M5** OJ No L 330, 5.12.1998, p. 32, as last amended by Commission Directive (EU) 2015/1787 (OJ No L 260, 7.10.2015, p. 6).
- M6** OJ No L 372, 27.12.2006, p. 19, as last amended by Commission Directive 2014/80/EU (OJ No L 182, 21.6.2014, p. 52).
- M7** OJ No L 182, 21.6.2014, p. 52.

**Changes to legislation:**

There are currently no known outstanding effects for the The Water (Amendment) (Northern Ireland) (EU Exit) Regulations 2019, Section 11.