
STATUTORY RULES OF NORTHERN IRELAND

2014 No. 307

**The Nitrates Action Programme
Regulations (Northern Ireland) 2014**

PART 7

Enforcement

Enforcement

27.—(1) The enforcement authority for the purpose of compliance with these Regulations shall be the Department or any person authorised by the Department.

(2) In ensuring compliance with these Regulations an authorised person may have regard to the Code of Good Agricultural Practice and any guidance produced on these Regulations.

(3) A person authorised under Article 72 of the Order may exercise any of the functions under that Article to determine or ensure compliance with these Regulations.

Notices

28.—(1) The Department may serve notice on any appropriate person—

(a) who has custody or control of slurry, or any crop which is being made into silage, or of any silage, in circumstances in which these Regulations apply, requiring that person to carry out such works, take such precautions or take such other steps as are specified in the notice and which, in the opinion of the Department, are appropriate, having regard to any requirements of these Regulations in relation to that substance, for reducing to a minimum any significant risk of pollution of water in a waterway or underground strata arising from the custody or control of that substance; or

(b) where the Department is of the opinion that the appropriate person is in breach or is likely to be in breach of these Regulations.

(2) A notice served in accordance with paragraph (1) shall—

(a) require the person upon whom it is served to carry out such works or to take such precautions and other steps as the Department specifies in the notice as appropriate to reduce to a minimum any significant risk of pollution of water in a waterway or underground strata arising from the custody or control of slurry, or any crop which is being made into silage, or of any silage, or to prevent any breach, to remedy any breach or to prevent the continuation or repetition of any breach to which the notice relates;

(b) subject to paragraph (3) state the period within which any such requirement is to be complied with; and

(c) inform the person on whom the notice is served of their right to appeal under paragraph (4).

(3) The period for compliance stated in the notice pursuant to paragraph (2)(b) shall be such as is reasonable in the circumstances and shall not in any case be less than 28 days from the day on which the notice is served.

- (4) A notice served pursuant to this regulation may be appealed in accordance with regulation 29.
- (5) Where an appeal is brought under regulation 29, the notice shall be of no effect pending the final determination or the withdrawal of the appeal.
- (6) The Department may at any time—
- (a) withdraw the notice;
 - (b) extend the period for compliance; or
 - (c) with the consent of the person on whom the notice is served, modify any requirement of the notice.

Appeals against notices requiring works etc.

29.—(1) Any appropriate person upon whom a notice is served under regulation 28 may, within the period of 28 days from the day on which the notice is served, appeal in writing against the notice to the Appeals Commission.

(2) Appeals under regulations 9(6), 12(3)(d), 18(3)(d), and 28(4) shall be determined by the Appeals Commission in accordance with the procedure pursuant to Article 293 of the Water and Sewerage Services (Northern Ireland) Order 2006⁽¹⁾ and, for the purposes of appeals under these Regulations, references to the Department in Article 293 shall have the same meaning as under these Regulations.

Offences

30.—(1) It shall be an offence for the controller to fail to comply without reasonable excuse with regulation 4, 9(1), 12(1), 12(6) or 12(7).

(2) It shall be an offence for the appropriate person to fail to comply without reasonable excuse with regulation 7(3), 7(4), 7(5), 8(2), 8(3), 8(7), 8(8), 8(9), 17(3) or 18(5).

(3) It shall be an offence for the controller to fail to comply with regulation 9(5), 10, 11(1), 11(2), 12(4), 12(5), 13(1), 14(1), 14(3), 15, 19, 22, 24, 25(1), 25(2), 25(4), 25(5) or 26.

(4) From 1st January 2017, it shall be an offence for the controller to fail to comply with regulation 25(3).

(5) It shall be an offence for the appropriate person to fail to comply with regulation 7(1), 7(2), 8(1), 8(4), 8(5), 8(6), 8(10), 8(11), 14(4), 16(1), 16(6), 17(1), 17(2), 18(1), 18(2), 18(4), 18(6), 21(1), 21(2), 21(6) or 23.

(6) It shall be an offence for the appropriate person to fail to comply without reasonable excuse with any requirement of a notice issued under regulation 28.

Penalties

31. Any person guilty of an offence under regulation 30 shall be liable on summary conviction, to a fine not exceeding level 5 on the standard scale (if not calculated on a daily basis) or, in the case of a continuing offence, not exceeding an amount equal to one-tenth of level 5 on the standard scale; or on conviction on indictment to imprisonment for a term not exceeding 2 years.

(1) [S.I. 2006/3336 \(N.I. 21\)](#)