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WELSH STATUTORY INSTRUMENTS

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**2019 No. 863 (W. 155)**

**AGRICULTURE, WALES  
WATER, WALES**

**The Nitrate Pollution Prevention  
(Wales) (Amendment) Regulations 2019**

*Made* - - - - 10 April 2019  
*Laid before the National  
Assembly for Wales* - - 12 April 2019  
*Coming into force in accordance with regulation 1*

The Welsh Ministers are designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to matters relating to the protection of waters against pollution caused by nitrates from agricultural sources and make these Regulations in exercise of the powers conferred by that section.

**Title and commencement**

1. The title of these Regulations is the Nitrate Pollution Prevention (Wales) (Amendment) Regulations 2019 and they come into force 21 days after the date on which they are laid.

**Amendment of the Nitrate Pollution Prevention (Wales) Regulations 2013**

2. The Nitrate Pollution Prevention (Wales) Regulations 2013<sup>(3)</sup> are amended in accordance with regulations 3 to 8.

**Amendment of regulation 4 (transitional measures for holdings not previously in a nitrate-vulnerable zone)**

3. In regulation 4—

- (a) the existing paragraph is renumbered as paragraph (1) of that regulation;

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(1) See *S.I. 2001/2555* for the designation conferred on the National Assembly for Wales. By virtue of sections 59 and 162 of, and paragraph 28 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), that designation is now conferred on the Welsh Ministers.

(2) 1972 c. 68; section 2(2) was amended by section 27(1) (a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).

(3) *S.I. 2013/2506 (W. 245)*, amended by *S.I. 2015/2020 (W. 308)*, 2018/1216 (W. 249). There are other amending instruments but none is relevant.

(b) after paragraph (1) (as renumbered) insert—

“(2) In relation to a new holding—

- (a) regulations 12 to 22, 23(3), 24, 25, 30 to 33 and 36 to 46 do not apply until the beginning of the second calendar year after the year in which the Welsh Ministers revise or add to the designation of nitrate vulnerable zones under regulation 11(3) so as to include the new holding;
- (b) regulations 23(1) and (2), 26 to 29, 34 and 35 do not apply until 31 July in the third calendar year after the year in which the Welsh Ministers revise or add to the designation of nitrate vulnerable zones under regulation 11(3) so as to include the new holding.”

#### **Amendment of regulation 6 (interpretation)**

4. In regulation 6, in the appropriate place, insert—

““new holding” (“*daliad newydd*”) means land and its associated buildings which become a holding as a result of the Welsh Ministers revising or adding to the designation of nitrate vulnerable zones following a review under regulation 11(3), and which were not a holding immediately before the date of that revision or addition;”.

#### **Amendment of regulation 7 (designation of nitrate vulnerable zones)**

5. In regulation 7—

(a) for paragraphs (2) and (3) substitute—

“(2) An area is designated as a nitrate vulnerable zone for the purposes of these Regulations if, as an area of land that drains into polluted waters and contributes to the pollution of those waters, it is marked as such a zone on a relevant map.

(3) For the purposes of this regulation—

- (a) for the period beginning with 25 October 2013 and ending with the day on which the Welsh Ministers next revise or add to the designation of nitrate vulnerable zones under regulation 11(3), “map” means the map marked “Nitrate Vulnerable Zones Index Map 2013” and deposited at the offices of the Welsh Government at Cathays Park, Cardiff, CF10 3NQ;
- (b) following any subsequent review under regulation 11(3), “map” means a map which is deposited at the offices of the Welsh Government at Cathays Park, Cardiff, CF10 3NQ and which—
  - (i) is marked “This map identifies those areas of Wales designated by the Welsh Ministers as a Nitrate Vulnerable Zone for the purposes of the Nitrate Pollution Prevention (Wales) Regulations 2013”; and
  - (ii) specifies the period to which it relates.”;

(b) in paragraph (4), for “at the latest every four years subsequently” substitute “before 1 January of every fourth year thereafter”.

#### **Amendment of regulation 11 (review of nitrate vulnerable zones)**

6. In regulation 11(2), for “at least every four years subsequently” substitute “before 1 January of every fourth year thereafter”.

**Amendment of regulation 36 (recording the size of the holding)**

7. In regulation 36, after paragraph (2), insert—

“(3) The occupier of a new holding must record the total size of the holding calculated in accordance with regulation 12(3).”

**Amendment of regulation 37 (records relating to storage of manure during the storage period)**

8. In regulation 37, after paragraph (3), insert—

“(4) The occupier of a new holding must calculate and record the matters listed in paragraph (1) (a) to (c).”

10 April 2019

*Lesley Griffiths*  
Minister for Environment, Energy and Rural  
Affairs, one of the Welsh Ministers

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Nitrate Pollution Prevention (Wales) Regulations 2013 ([S.I. 2013/2506 \(W. 245\)](#)) (“the 2013 Regulations”) relating to monitoring of nitrate pollution and designation of nitrate vulnerable zones.

Regulation 5 amends regulation 7 of the 2013 Regulations to update the process by which the Welsh Ministers may designate areas as nitrate vulnerable zones. The current designation process is reliant on section 2(2) of the European Communities Act 1972 which will be repealed once the United Kingdom leaves the European Union.

Regulation 4 amends regulation 6 of the 2013 Regulations to introduce a definition for “new holding” in light of the new designation process.

Regulation 3 amends regulation 4 of the 2013 Regulation so as to provide transitional arrangements for new holdings.

Regulations 6 to 8 make further consequential provision including introducing reporting requirements in relation to new holdings.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, no impact assessment has been produced for these Regulations as there is no change to policy, or impact on business or the voluntary sectors foreseen.