
STATUTORY RULES OF NORTHERN IRELAND

2006 No. 489

**The Nitrates Action Programme
Regulations (Northern Ireland) 2006**

PART 1

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as The Nitrates Action Programme Regulations (Northern Ireland) 2006 and subject to regulation 28 shall come into operation on 1st January 2007.

Territorial application

2. These Regulations shall apply to the whole of the territory of Northern Ireland as required under The Protection of Water Against Agricultural Nitrate Pollution Regulations (Northern Ireland) 2004(1).

Interpretation

3.—(1) The Interpretation Act (Northern Ireland) 1954(2) shall apply to these Regulations as it applies to an Act of the Assembly.

(2) In these Regulations:

“action programme” means measures regarding the protection of water against pollution caused by nitrates from agricultural sources as set out in Article 5 and Annex III of the Directive;

“agricultural area” means any land suitable for agricultural activities, including any common land used for grazing and excludes areas under farm roads, paths, buildings, woods, dense scrub, rivers, streams, ponds, lakes, sandpits, quarries, areas of peat cutting, bare rock, areas of forestry and areas fenced off or inaccessible other than forests where the use of the same is ancillary to the farming of land for other agricultural purposes;

“agricultural land” has the same meaning as in the Agriculture Act (Northern Ireland) 1949(3);

“Appeals Commission” means the Water Appeals Commission for Northern Ireland established under Article 7(1) of the Water and Sewerage Services (Northern Ireland) Order 1973(4);

“authorised person” means a person authorised by the Department under Article 72 of the Order in respect of fulfilling its functions;

(1) S.R. 2004 No. 419

(2) 1954 c.33 (N.I.)

(3) 1949 c.2 (N.I.)

(4) S.I. 1973/70 (N.I. 2)

“chemical fertiliser” means any fertiliser containing a nitrogen compound which is manufactured or blended by an industrial process;

“controller” means in relation to a holding, the person charged with management of the holding for the calendar year in question and in the absence of written agreement to the contrary, the owner of the agricultural area will be taken to be charged with its management;

“crop requirement” means the amount of nitrogen fertiliser which is reasonable to apply to land in any year for the purpose of promoting the growth of the crop having regard to the foreseeable nitrogen supply to the crop from the soil and from other sources, including any previous applications of livestock and other organic manure and any chemical fertilisers estimated as described in the fertiliser technical standards and regulation 9 of these Regulations;

“Department” means the Department of the Environment;

“Departments” mean the Department of the Environment and the Department of Agriculture and Rural Development acting jointly;

“Directive” means Council Directive [91/676/EEC](#) of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources⁽⁵⁾;

“dirty water” means a low dry matter waste made up of water contaminated by manure, urine, effluent, milk and cleaning materials with a Biochemical Oxygen Demand (BOD) no greater than 2000 mg/litre and total nitrogen and dry matter contents as set out in Schedule 1 Table 2;

“environment” means any or all of the following media, namely the air, water and land;

“farmyard manure” means a mixture of bedding material and animal excreta in solid form arising from the housing of cattle, sheep and other livestock, excluding poultry manure, but including spent mushroom compost and the stackable solids fraction from mechanical separation of slurry excluding pig slurry;

“fertiliser technical standards” means the ‘DEFRA Fertiliser Recommendations for Agricultural and Horticultural Crops (RB209) 2000 7th edition’ (as may from time to time be re-issued) and any supplementary guidance, and any other DEFRA publication substituting the standards set out in RB209 and any supplementary guidance;

“grassland” means any land on which the vegetation consists predominantly of grass species;

“holding” in relation to a controller means all the agricultural area managed by that controller;

“lake” means a body of standing inland surface water;

“land application” means the addition of materials to agricultural land whether by spreading on the surface of the land, injection into the land, placing below the surface of the land or mixing with the surface layers of the land but does not include the direct deposition of manure onto land by animals;

“livestock” means any animal kept for use or profit;

“livestock manure” save for the purposes of regulation 14 means waste products excreted by livestock, or a mixture of litter and waste products excreted by livestock, even in processed form;

“nitrogen compound” means any nitrogen-containing substance except for gaseous molecular nitrogen;

“nitrogen fertiliser” means any substance, including chemical fertiliser, containing a nitrogen compound utilised on land to enhance growth of vegetation;

“notice” means notice in writing;

“organic manure” means

- (a) livestock manure, and
- (b) nitrogen fertiliser, not being livestock manure or chemical fertiliser, derived from organic matter, and includes sewage sludge, residues from fish farms and other organic wastes;

“pig enterprise” means any enterprise with more than 10 breeding sow places or 150 finishing pig places;

“poultry enterprise” means any enterprise with more than 500 places;

“public” means such persons as appear to the Departments—

- (a) to be representative of those carrying on any business which—
 - (i) is, or is likely to be, directly affected by the action programme; or
 - (ii) relies upon the water environment; or
- (b) to have an interest in the protection of the water environment;

“scientific case” means a reasoned case, as set out in guidance issued on these Regulations, designed to demonstrate that the proposed deviation from the values set out in Schedule 1 Tables 1, 2 or 3 of these Regulations will have no worse effect on the environment than that caused by using the aforementioned values;

“silage effluent” has the same meaning as in regulation 1(1) of the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (Northern Ireland) 2003⁽⁶⁾;

“slurry” means (a) excreta produced by livestock whilst in a yard or building or (b) a mixture of such excreta with bedding, rainwater, seepage, washings or any other extraneous material from a building or yard used by livestock or in which livestock manure is stored or (c) any other organic manure or any combination of these, of a consistency that allows it to be pumped or discharged by gravity at any stage in the handling process and includes dirty water that is stored with slurry or mixed with slurry;

“soil fertility status” means the soil reserves available for uptake by the next crop estimated as described in the fertiliser technical standards;

“steeply sloping land” means land which has an average incline of 20% or more;

“the Order” means the Waste and Contaminated Land (Northern Ireland) Order 1997;

“underground strata” has the same meaning as in Article 2(2) of the Water (Northern Ireland) Order 1999⁽⁷⁾;

“water pollution” means the discharge, directly or indirectly, of nitrogen compounds from agricultural sources into the aquatic environment, the results of which are such to cause hazards to human health, harm to living resources and to aquatic ecosystems, damage to amenities or interference with other legitimate uses of water;

“waterlogged” means soil where water appears on the surface of the land when pressure is added;

“waterway” has the same meaning as in Article 2(2) of the Water (Northern Ireland) Order 1999.

- (3) Other expressions used in these Regulations have the same meaning as in the Directive.

⁽⁶⁾ S.R. 2003 No. 319

⁽⁷⁾ S.I. 1999/662 (N.I. 6)

PART 2

GENERAL

Duty of the controller to prevent water pollution

4. The controller of a holding shall not knowingly or otherwise cause directly or indirectly the entry of nitrogen fertiliser into any waterway or water contained in any underground strata.

Duty of the owner and/or controller to comply with these Regulations

5. In complying with any duty under these Regulations, the owner and/or controller of a holding shall have regard to any guidance which may be issued from time to time by the Department or Departments for the purposes of these Regulations and, in accordance with Article 4 of the Directive, the Code of Good Agricultural Practice as may be amended from time to time.

PART 3

PREVENTION OF WATER POLLUTION FROM THE APPLICATION OF FERTILISERS

Periods when the land application of nitrogen fertiliser is prohibited

6.—(1) The land application of chemical fertiliser to grassland shall not be permitted between 15 September in any year and 31 January of the following year.

(2) The land application of chemical fertiliser to any land shall not be permitted between 15 September in any year and 31 January of the following year for crops other than grass unless there is a demonstrable crop requirement between those dates.

(3) The land application of organic manure, excluding farmyard manure and dirty water, to any land shall not be permitted between 15 October in any year and 31 January of the following year.

Requirements as to the manner of land application of nitrogen fertiliser other than dirty water

7.—(1) The land application of nitrogen fertiliser shall be done in an accurate and uniform manner and, other than for dirty water, in accordance with paragraphs (2) to (8).

(2) The land application of nitrogen fertiliser shall not be permitted when: -

- (a) soil is waterlogged; or
- (b) land is flooded or likely to flood; or
- (c) the soil has been frozen for 12 hours or longer in the preceding 24 hours; or
- (d) land is snow-covered; or
- (e) heavy rain is forecast within 48 hours; or
- (f) the land is steeply sloping land where, taking into account factors such as proximity to waterways, soil condition, ground cover and rainfall there is a significant risk of causing water pollution.

(3) The land application of nitrogen fertiliser shall not be permitted on any land in a location or manner which would make it likely that the nitrogen fertiliser will directly enter a waterway or water contained in any underground strata.

(4) The land application of chemical fertiliser shall not be permitted within 1.5 m of any waterway.

(5) The land application of organic manures shall not be permitted within: –

- (a) 20m of lakes; or
- (b) 50m of a borehole, spring or well; or
- (c) 250m of a borehole used for a public water supply; or
- (d) 15m of exposed cavernous or karstified limestone features (such as swallow-holes and collapse features); or
- (e) 10m of any waterway, other than lakes, including open areas of water, open field drains or any drain which has been backfilled to the surface with permeable material such as stone/aggregate; except that
- (f) the distance for (e) may be reduced to 3m of any waterway where the land has an average incline less than 10% towards the waterway and where:
 - (i) organic manures are spread by bandspreaders, trailing hose or trailing shoe or soil injection; or
 - (ii) the adjoining area is less than 1 hectare in size or not more than 50m in width.

(6) The maximum land application of solid organic manure shall be 50 tonnes per hectare at any one time provided this does not exceed the limits set out in regulation 9(1) and 10(3) and a period of at least 3 weeks shall be left between such land applications.

(7) The maximum land application of slurry shall be 50 m³/ha at any one time provided this does not exceed the limits set out in regulation 9(1) and 10(3) and a period of at least 3 weeks shall be left between such land applications.

(8) The land application of slurry shall only be permitted by spreading close to the ground using inverted splash plate spreading, bandspreading, trailing hose, trailing shoe, soil injection or soil incorporation methods.

Requirements as to the manner of land application of dirty water

8.—(1) Subject to regulations 7(2) and 7(3), the land application of dirty water to any land shall be permitted throughout the year, provided that it is done in a uniform and accurate manner.

(2) The maximum land application of dirty water shall be 50 m³/ha at any one time and a period of at least 2 weeks shall be left between such land applications.

(3) The land application of dirty water shall not be permitted within: –

- (a) 20m of lakes; or
- (b) 50m of a borehole, spring or well; or
- (c) 250m of a borehole used for a public water supply; or
- (d) 15m of exposed cavernous or karstified limestone features (such as swallow-holes and collapse features); or
- (e) 10m of any waterway, other than lakes, including open areas of water, open field drains or any drain which has been backfilled to the surface with permeable material such as stone/aggregate; except that
- (f) the distance for (e) may be reduced to 3m of any waterway where the land has an average incline less than 10% towards the waterway and where:
 - (i) organic manures are spread by bandspreaders, trailing hose or trailing shoe or soil injection; or
 - (ii) the adjoining area is less than 1 hectare in size or not more than 50m in width.

(4) The land application of dirty water shall only take place by spreading close to the ground using inverted splash plate spreading, bandspreading, trailing hose, trailing shoe, soil injection or soil incorporation methods and by irrigation.

Measures governing the limits on land application of nitrogen fertiliser to grassland

9.—(1) The amount of total nitrogen in livestock manure applied to the agricultural area of a holding, both by land application and by the animals themselves, shall not exceed 170kg N/ha/year when calculated in accordance with paragraphs (3) and (4).

(2) For each holding, the total available nitrogen in organic manures and chemical fertiliser, excluding livestock manures, applied to grassland, shall be in proportion to the crop requirement of the holding, and shall not exceed the amounts as defined in Schedule 1 Table 4, when calculated in accordance with paragraphs (5), (6) and (7).

(3) The total nitrogen from livestock manure from animals kept on the holding will be calculated in accordance with Schedule 1 Table 1.

(4) The total nitrogen from imported livestock manures will be calculated in accordance with Schedule 1 Table 2 for slurry and Schedule 1 Table 3 for solid livestock manures.

(5) The total nitrogen content per tonne of other organic manures, excluding livestock manure, shall be as declared in accordance with the Waste Management Licensing Regulations (Northern Ireland) 2003(8) and any amending Regulations.

(6) The amount of nitrogen available to a crop from chemical fertiliser, in the year of application of that fertiliser, is the percentage specified in Schedule 1 Table 6.

(7) Except in the case of livestock manure, the amount of nitrogen available to a crop from organic manure in the year of its application is the percentage specified in Schedule 1 Table 6, in relation to cattle and other livestock manure.

(8) Any controller wishing to deviate from the values set out in Schedule 1 Tables 1, 2 or 3 must present a scientific case in order to obtain prior approval from the Department, and the Department shall only grant such approval where it is satisfied that a scientific case has been established.

(9) A controller may appeal the decision by the Department in paragraph (8) in accordance with the procedure set out in regulation 23.

Measures governing the limits on land application of nitrogen fertiliser to land other than grassland

10.—(1) Subject to paragraphs (2) and (3), in relation to a holding the quantity of nitrogen fertiliser added to land other than grassland both by land application and by the animals themselves each year shall not exceed the crop requirements for nitrogen calculated in accordance with paragraphs (4) to (8).

(2) The amount of nitrogen fertiliser applied to land other than grassland both by land application and by the animals themselves shall not exceed the recommendations contained in the fertiliser technical standards.

(3) The amount of total nitrogen in livestock manure applied to the agricultural area of the holding, both by land application and by the animals themselves, shall not exceed 170kg N/ha/year when calculated in accordance with paragraphs (4) and (5).

(4) The total nitrogen from livestock manure from animals kept on the holding will be calculated in accordance with Schedule 1 Table 1.

(5) The total nitrogen from imported livestock manures will be calculated in accordance with Schedule 1 Table 2 for slurry and Schedule 1 Table 3 for solid livestock manures.

(6) The total nitrogen content per tonne of other organic manures, excluding livestock manure, shall be as declared in accordance with the Waste Management Licensing Regulations (Northern Ireland) 2003 and any amending Regulations.

(7) The amount of nitrogen available to a crop from livestock manures or chemical fertiliser in the year of application of that fertiliser is the percentage specified in Schedule 1 Table 6.

(8) Except in the case of livestock manure, the amount of nitrogen available to a crop from organic manure in the year of its application is the percentage specified in Schedule 1 Table 6, in relation to cattle and other livestock manure.

(9) Any controller wishing to deviate from the values set out in Schedule 1 Tables 1, 2 or 3 must present a scientific case in order to obtain prior approval from the Department, and the Department shall only grant such approval where it is satisfied that a scientific case has been established.

(10) A controller may appeal the decision by the Department in paragraph (9) in accordance with the procedure set out in regulation 23.

PART 4

LIVESTOCK MANURE STORAGE REQUIREMENTS

General obligations as to storage facilities for livestock manure

11.—(1) Subject to paragraphs (2) and (3) and regulations 14 and 16, the capacity of storage facilities for livestock manure of a holding shall be sufficient and adequate to provide for the storage of all the livestock manure which is likely to require storage on the holding for such period as may be necessary to ensure compliance with these Regulations and the avoidance of water pollution.

(2) For the purposes of paragraph (1), the controller shall have due regard to the storage capacity likely to be needed by the holding during periods of adverse weather conditions when, due to extended periods of wet weather, frozen ground or otherwise, the application to land of livestock manure is not permitted.

(3) Subject to regulation 12, the total livestock manure storage capacity on holdings shall be sufficient for at least 22 weeks storage.

(4) All storage facilities for livestock manure and silage effluent shall be maintained free of structural defect, shall be of such standard as is necessary to prevent run-off or seepage, directly or indirectly, into a waterway or water contained in any underground strata and where applicable shall comply with The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (Northern Ireland) 2003 and any amending Regulations.

Obligations as to livestock manure storage capacity on pig and poultry enterprises

12.—(1) Subject to paragraph (2), on holdings where there is a pig or poultry enterprise there shall be a storage requirement of 26 weeks.

(2) Holdings with less than 10 breeding sow places or 150 finishing pig places and holdings with less than 500 poultry places shall require 22 weeks storage.

(3) Holdings where there is a pig and/or poultry enterprise and another livestock enterprise shall require 26 weeks storage for the pig and/or poultry enterprise and 22 weeks storage for the other livestock enterprise.

Manner of storage and location of farmyard manure storage facilities

13.—(1) Prior to field storage or land application farmyard manure should be stored in a midden which shall have adequate effluent collection facilities.

(2) Farmyard manure may be stored in the field where land application will take place subject to a maximum limit of 180 days.

(3) Where stored in a field, farmyard manure must not be stored in the same location of the field in consecutive years.

(4) Farmyard manure must be stored in a compact heap and such heaps must not be placed within:

- (a) 50m of lakes; or
- (b) 20m of any waterway, including open areas of water, open field drains or any drain which has been backfilled to the surface with permeable material such as stone/aggregate; or
- (c) 50m around a borehole, spring or well; or
- (d) 250m from any borehole used for a public water supply; or
- (e) 50m of exposed cavernous or karstified limestone features (such as swallow-holes and collapse features).

Manner of storage and location of poultry litter storage facilities

14.—(1) Subject to regulation 28 poultry litter may be stored in the field where land application will take place subject to a maximum limit of 180 days.

(2) Where poultry litter is stored in a midden it shall have adequate effluent collection facilities prior to field storage or land application.

(3) Where stored in a field, poultry litter must be stored in a compact heap but not in the same location of the field in consecutive years and must be covered with an impermeable membrane within 24 hours of placement in the fields.

(4) Poultry litter heaps must not be placed within:

- (a) 50m of lakes; or
- (b) 20m of any waterway, including open areas of water, open field drains or any drain which has been backfilled to the surface with permeable material such as stone/aggregate; or
- (c) 50m around a borehole, spring or well; or
- (d) 250m from any borehole used for a public water supply; or
- (e) 50m of exposed cavernous or karstified limestone features (such as swallow-holes and collapse features).

(5) In this regulation, poultry litter means a mixture of bedding material and poultry manure arising from the housing of poultry and with a dry matter content not less than 55%.

Manner of storage for dirty water

15. Provision for the safe storage of dirty water should be available for those periods when weather and ground conditions, as set out in regulation 7(2), are unsuitable for land application.

Calculation of livestock manure storage capacity

16.—(1) In calculating the livestock manure storage capacity of a holding, the following farming practices may be taken into account:

- (a) the quantity of farmyard manure;

- (b) any solids removed from slurry other than pig slurry by means of a slurry separator;
 - (c) any additional storage available off the holding, by means of a rental agreement; and
 - (d) any valid contract the holding has with a manure processing facility or demonstrable access to an approved treatment or recovery outlet.
- (2) Subject to paragraph (4), the livestock manure storage capacity of a holding may be less than the capacity specified in regulation 11 in relation to: –
- (a) sheep, deer and goats which are out-wintered at a grassland stocking rate which does not exceed 130 kg nitrogen at any time during the period specified in regulation 6(3) in relation to the application of organic manure as calculated in accordance with paragraph (6); and
 - (b) livestock (other than dairy cows, sheep, deer and goats) which are out-wintered at a grassland stocking rate which does not exceed 85 kg of nitrogen at any time during the period specified in regulation 6(3) in relation to the application of organic manure, as calculated in accordance with paragraph (6), provided the amount of livestock manure produced on the holding does not exceed 140kg N/ha/year in accordance with regulation 9.
 - (c) in the case of a mixed holding the nitrogen limit in sub-paragraph (b) shall apply except where the controller of the holding demonstrates to the Department that the livestock out-wintered more appropriately reflects the composition of the livestock applicable in sub-paragraph (a).
- (3) The livestock manure storage capacity of a holding shall be calculated in accordance with:
- (a) the livestock manure production figures specified in Schedule 1 Table 5; and
 - (b) any further procedures for calculating such storage capacity which will be specified in guidance relating to these Regulations.
- (4) A holding falling within paragraph (2) must ensure that:
- (a) out-wintered livestock have free access at all times to the required land area;
 - (b) land is maintained in good agricultural and environmental condition; and
 - (c) the reduction in storage capacity is proportionate to the extent of out-wintered livestock on the holding.
- (5) Any land used for the purpose of out-wintering under paragraphs (2) and (4) must be under the control of the holding to which the exemption applies.
- (6) In this regulation, a grassland stocking rate of 130 kg or 85 kg of nitrogen, as the case may be, means the stocking of grassland on a holding at any time by such numbers and types of livestock as would in the course of a year excrete waste products containing 130 kg or 85 kg of nitrogen, as the case may be, per hectare of the grassland when calculated in accordance with the nitrogen excretion rate for livestock specified in Schedule 1 Table 1.
- (7) In this regulation, mixed holding means a holding where there are sheep, deer, goats and other livestock (other than dairy cows).

PART 5

MEASURES RELATING TO LAND MANAGEMENT

Cover in winter

17. After harvesting a crop of cereals (other than maize), oil seeds or grain legumes (such as peas or beans) the controller shall ensure that from harvest until 1 March in the following year, one of the following conditions is met on the land at any time:

- (a) the stubble of the harvested crop remains in the land; or
- (b) the land is sown with a crop which will take up nitrogen from the soil; or
- (c) the land is left with a rough surface, ploughed or disced, to encourage the infiltration of rain.

Crop management

18. In having regard to these Regulations, the following principles of crop management shall apply:

- (a) residues of crops harvested late, such as maize and potatoes, shall be left undisturbed until immediately prior to sowing the following Spring; and
- (b) where grass leys are grown in rotation with arable crops the first crop should be sown as soon as possible after the grass has been ploughed.

PART 6

RECORD KEEPING AND COMPLIANCE MONITORING

Type of records required

19.—(1) On all holdings the controller shall keep sufficient records available for inspection as detailed in paragraph (2).

(2) The records shall be kept so as to allow the following information to be ascertained on an annual basis: -

- (a) the controller of the land for the calendar year in question;
- (b) the total agricultural area including the size and location of each field;
- (c) the cropping regimes and their individual areas;
- (d) the soil nitrogen supply index for cropping areas other than grassland as estimated in accordance with the fertiliser technical standards;
- (e) the number of livestock kept on the holding, their species and type, and the length of time for which they were kept on the holding;
- (f) the capacity of livestock manure storage, and where applicable the details of rented storage, farmyard manure production, out wintered livestock, manure separation and manure processing facilities utilised;
- (g) the details of any rental or contractual agreement to demonstrate compliance with regulations 16(1)(c) and 16(1)(d);
- (h) the quantity of each type of nitrogen fertiliser moved on or off the holding, the amount of each type of nitrogen fertiliser applied, the certified nitrogen content of the chemical fertiliser, the total nitrogen content per tonne of other organic manures as declared in accordance with regulations 9(5) and 10(6), the date of that movement and, in the case of organic manure, the name and address of the consignee, the consignor and any third party transporter of the manure; and
- (i) evidence of the right to graze common land.

(3) Records under this regulation shall be prepared for each calendar year by 30 June of the following year and shall be retained for a period of 5 years from that date.

Duty of the controller not to provide false or misleading information

20. The controller shall not compile records which are false or misleading to a material extent or furnish any such false or misleading records or any notice or other document for the purposes of these Regulations.

PART 7 ENFORCEMENT

Enforcement

21.—(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

22.—(1) Where the Department is of the opinion that a controller is in breach or is likely to be in breach of these Regulations or has breached these Regulations in such circumstances which make it likely that the breach will continue or be repeated, the Department may serve a notice on the controller in accordance with this regulation.

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

- (a) require the controller upon whom it is served to carry out such works or to take reasonable precautions and other steps as the Department considers appropriate to remedy, or to prevent the continuation or repetition of, any contravention to which the notice relates;
- (b) state the period within which any such requirement is to be complied with; and
- (c) inform the controller on whom the notice is served of their right to appeal under regulation 23(1).

(3) Subject to paragraph (4), the period for compliance stated in the notice as per paragraph (2) (b) shall be such as is reasonable in the circumstances and shall not in any case be less than 28 days.

(4) A notice under paragraph (2) may be appealed in accordance with regulation 23 and such an appeal shall suspend the period of compliance under paragraph (2)(b).

(5) The Department may at any time: —

- (a) withdraw the notice;
- (b) extend the period for compliance;
- (c) with the consent of the person on whom the notice is served, modify the requirement of the notice.

Appeals against notices requiring works etc

23. Appeals under regulations 9(9), 10(10) and 22(4) shall be determined by the Appeals Commission in accordance with the procedure set down in Article 8 of the Water and Sewerage Services (Northern Ireland) Order 1973 and for the purposes of appeals under these Regulations references to the Department in Article 8 shall have the same meaning as under these Regulations.

Offences

24.—(1) It shall be an offence to fail to comply without reasonable excuse with regulation 4, 6(3), 7(2), 7(3), 7(6), 7(7), 8(2), 9(1) and 10(3).

(2) It shall be an offence to fail to comply with regulation 6(1), 6(2), 7(1), 7(4), 7(5), 7(8), 8(1), 8(3), 8(4), 9(2), 9(8), 10(1), 10(2), 10(9), 11(1), 11(3), 11(4), 12, 13, 14(1)-(4), 15, 17, 18, 19 and 20 of these Regulations.

(3) It shall be an offence for a controller to fail without reasonable cause to comply with the conditions of a notice issued under regulation 22.

Penalties

25. A controller found guilty of an offence under regulation 24 shall be liable:

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale together with a fine of an amount equal to one-tenth of that level for each day upon which the offence continues after the conviction; or
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 2 years or both.

PART 8

POWERS, DUTIES AND FUNCTIONS OF THE DEPARTMENTS

Reporting

26.—(1) The Departments shall prepare at four-yearly intervals a report in accordance with Article 10 of the Directive.

(2) The Departments shall submit a report to the European Commission within 6 months of the reporting cycle which ends on 31 December 2007 and every four years thereafter.

Reviewing

27.—(1) The Departments shall, every four years, in consultation with the public, review this action programme and, if appropriate, publish a revised action programme for the protection of water against nitrates from agricultural sources.

(2) An action programme shall include such measures necessary as required by Article 5 of the Directive and shall contain a review of the action programme most recently made and of such additional measures as may be required.

(3) The Departments shall:—

- (a) ensure that the public is given early and effective opportunity to participate in the preparation, review or revision of an action programme required by Article 5 of the Directive; and
- (b) in doing so shall—
 - (i) ensure that the public is informed by public notices or other appropriate means such as electronic media, about any proposals for the preparation, review or revision of an action programme;
 - (ii) ensure that the information about the proposals referred to in paragraph (3)(a), is made available to the public, including information about the right to participate in decision making in relation to those proposals;

- (iii) ensure that the public is entitled to make comments before any decision is made on the establishment, review or revision of an action programme;
 - (iv) in making any such decision, take due account of the results of the public participation; and
 - (v) having examined the comments made by the public, make reasonable efforts to inform the public of the decisions taken and the reasons and considerations on which these decisions are based, including information on the public participation process.
- (4) In carrying out their functions under paragraph (3), the Departments shall ensure that reasonable time is allowed as is sufficient to enable the public to participate effectively.
- (5) In carrying out the functions under paragraph (3), where the Departments publish any information, the Departments shall:
- (a) do so in a way as they consider appropriate for the purpose of bringing the information to the attention of the public; and
 - (b) make copies of that information accessible to the public free of charge through their websites or otherwise.
- (6) The Departments shall specify in a notice on their websites or otherwise the detailed arrangements made to enable public participation in the preparation, review or revision of an action programme, including: -
- (a) the address to which comments in relation to those proposals may be submitted; and
 - (b) the date by which such comments should be received.

PART 9

MISCELLANEOUS

Timescale for implementation of measures

28. The measures contained in these Regulations shall come into operation in accordance with regulation 1 except that:

- (a) Regulation 6(3) will apply in the case of a holding without the prescribed storage capacity in place as required under regulations 11(3) and 12(1) to 12(3) from the date on which the prescribed storage capacity as required under regulation 11(3) and 12(1) to 12(3) is put in place or at the latest by 31 December 2008;
- (b) Regulations 11(3) and 12(1) to 12(3) will apply from the date on which the prescribed storage capacity is put in place or at the latest by 31 December 2008;
- (c) Regulation 14(1) will apply from the operational date of these Regulations until 31 December 2008 only;
- (d) A notice served under regulation 4 of The Action Programme for Nitrate Vulnerable Zones Regulations (Northern Ireland) 1999(9) prior to their revocation in accordance with regulation 30 shall be deemed to be a notice served under these Regulations with the coming into operation of these Regulations.

Consequential amendments

29.—(1) The Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (Northern Ireland) 2003 are amended as follows:

- (a) Before regulation 2(1) insert “2(1A) The definitions of “agricultural area”, “dirty water”, “controller”, “holding” and “slurry” shall have the same meaning as in regulation 3(2) of the Nitrates Action Programme Regulations (Northern Ireland) 2006.”
- (b) Delete from regulation 2(1) the definition of “slurry”.
- (c) Schedule 2 shall be amended as follows:

Delete paragraph 6 and replace with the following:

“**6.**—(1) Subject to sub-paragraph (2), the capacity of storage facilities for slurry of a holding shall be sufficient and adequate to provide for the storage of all the slurry which is likely to require storage on the holding for such period as may be necessary to ensure compliance with the Nitrates Action Programme Regulations (Northern Ireland) 2006.

(2) The matters to which regard is to be had under sub-paragraph (1) are—

- (a) the likely quantities of rainfall (including any fall of snow, hail or sleet) which may fall or drain into the slurry storage tank during the likely maximum storage period;
- (b) the need to make provision for not less than 750 millimetres of freeboard in the case of a tank with walls made of earth and 300 millimetres of freeboard in all other cases; and
- (c) soil quality in the vicinity of the slurry storage tank.”

(2) The Waste Management Licensing Regulations (Northern Ireland) 2003 Schedule 2 shall be amended as follows—

- (a) in Part I, paragraph 9, substitute sub-paragraph (3)(c) with “where the Nitrates Action Programme Regulations (Northern Ireland) 2006 applies treatment shall be carried out in accordance with those Regulations”;
- (b) in Part I, paragraph 10, substitute sub-paragraph (1)(c) with “where the Nitrates Action Programme Regulations (Northern Ireland) 2006 applies the spreading shall be carried out in accordance with those Regulations”;
- (c) in Part I, paragraph 11, substitute sub-paragraph (3)(e) with “where the Nitrates Action Programme Regulations (Northern Ireland) 2006 applies the spreading shall be carried out in accordance with those Regulations”;
- (d) in Part I, paragraph 25, sub-paragraph (1) substitute “sub-paragraphs (2) to (4A)” for “sub-paragraphs (2) to (4)”;
- (e) in Part I, paragraph 25, delete sub-paragraph (4A);
- (f) in Part I, delete paragraph 47A, sub-paragraph (1) and replace with the following:

“**47A.**—(1) The treatment of land used for agriculture with agricultural waste where such treatment results in benefit to agriculture or ecological improvement if—

- (a) the waste consists only of liquid milk;
- (b) before the treatment the waste is diluted with not less than an equal quantity of water or slurry;
- (c) in any period of 30 days the land is treated with no more than 50 cubic metres (tonnes) of diluted waste per hectare; and

- (d) the treatment shall be carried out in accordance with the Nitrates Action Programme Regulations (Northern Ireland) 2006.”
- (g) in Part I, delete paragraph 47B and replace with the following:
 - “**47B.** The deposit of agricultural waste consisting of plant tissue at the place of production if—
 - (a) there is no more than 250 cubic metres (tonnes) in any one deposit;
 - (b) the deposit is not immediately adjacent to any other deposit made in reliance on this exemption; and
 - (c) the deposit shall be carried out in accordance with the Nitrates Action Programme Regulations (Northern Ireland) 2006.”
- (h) in Part III, substitute paragraph 2(b) with “for exempt activities to which the Nitrates Action Programme Regulations (Northern Ireland) 2006 apply the exempt activity shall be carried out in accordance with those Regulations.”

Revocations

30.—(1) In accordance with the Protection of Water Against Agricultural Nitrate Pollution Regulations (Northern Ireland) 2004 the following statutory provisions shall be revoked in their entirety upon the coming into operation of these Regulations:

- (a) The Action Programme for Nitrate Vulnerable Zones Regulations (Northern Ireland) 1999; and
- (b) The Protection of Water Against Agricultural Nitrate Pollution Regulations (Northern Ireland) 2003(**10**).

(2) The Protection of Water Against Agricultural Nitrate Pollution (Amendment) Regulations (Northern Ireland) 2005(**11**) shall be revoked in their entirety upon the coming into operation of these Regulations.

Sealed with the Official Seal of the Department of Agriculture and Rural Development on 1st December 2006.



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A senior officer of the Department of Agriculture
and Rural Development

(10) S.R. 2003 No. 259
(11) S.R. 2005 No. 306

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Sealed with the Official Seal of the Department of the Environment on 1st December 2006.



Wesley Shannon
A senior officer of the Department of the
Environment