

EXPLANATORY MEMORANDUM TO

The Nitrates Action Programme Regulations (Northern Ireland) 2014

SR 2014 No. 307

Introduction

1. This Explanatory Memorandum has been prepared by the Department of the Environment and the Department of Agriculture and Rural Development (the Departments) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and, in the case of DOE, under Article 32 of the Waste and Contaminated Land (Northern Ireland) Order 1997 and is subject to the negative resolution process.

Purpose

3. The Statutory Rule sets out an action programme for the period 01 January 2015 to 31 December 2018 under Council Directive of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (91/676/EEC) (the Nitrates Directive), to ensure continued implementation of the Directive in Northern Ireland. It also implements a European Commission Decision allowing derogation from a land application limit of 170 kg of nitrogen per hectare per year (kg N/ha/year) of livestock manure up to 250 kg N/ha/year from grazing livestock manure for farms which meet certain conditions.

Background

4. Action programmes implemented under the Nitrates Directive aim to improve water quality by addressing high nitrate levels in surface and groundwaters and eutrophication (deterioration of water quality linked to nutrient enrichment) in surface waters. Action programme measures promote better management of fertilisers and manures and, in addition to protection of water quality, should have positive benefits for agricultural nutrient management and nutrient efficiency.
5. From 1 January 2011, the Nitrates Directive has been implemented in Northern Ireland through the Nitrates Action Programme Regulations (Northern Ireland) 2010 (2010 NAP Regulations), which set out an action programme applying to all farms across Northern Ireland. The 2010 NAP Regulations also implement a Commission Derogation Decision (2011/128/EU) which expires on 31 December 2014. In accordance with the requirements of the Directive to review action programmes every four years, a review of the NAP Regulations was undertaken, so that a new action programme can be in place by January 2015. Due to its importance to intensive grassland farms in Northern Ireland, the Departments also undertook an application process to renew the Derogation

Decision. Approval of a new Derogation Decision was secured after a positive vote by member states' representatives at the EU Nitrates Committee in December 2014.

Consultation

6. The Departments issued an 11-week consultation in June 2014 on proposed revisions to the 2010 NAP Regulations and associated regulations, with the aim of building on improvements in water quality and agricultural nutrient management seen in the last two action programmes. After consideration of the responses to the consultation and discussions with stakeholders and the European Commission, the Departments adjusted some of the proposed revisions for the 2014 NAP Regulations.

Equality Impact Assessment

7. In accordance with the Departments' obligations under Section 75 of the Northern Ireland Act 1998, the equality implications of the proposed Regulations were assessed by a screening exercise. The Departments consider that the Statutory Rule will not result in any equality differentials amongst Section 75 groups and that a full Equality Impact Assessment is not required.

Regulatory Impact Assessment

8. A partial Regulatory Impact Assessment was included in the consultation package. Due to increased phasing of implementation, and the decision not to progress some of the initial proposals, the adjusted proposals will have minimal financial and administrative implications for farm businesses, without compromising the objectives of the Nitrates Directive. The maximum additional cost to the industry is estimated to be £0.14 m per year. There will also be a small increase in administrative work for some farm businesses.

Financial Implications

9. The Statutory Rule should strengthen improvements seen in water quality over the last two action programmes, improve agricultural nutrient management and help streamline regulation, without significantly increasing the financial or administrative burden to the agricultural industry. Many of the finalised revisions are cost neutral and should have a positive impact on nutrient management and farm efficiency.
10. The costs of not revising the 2010 NAP Regulations were potentially significant. In particular failure to renew the Derogation Decision could have resulted in an estimated cost to the agricultural industry of up to £4.08m per annum.

Section 24 of the Northern Ireland Act 1998

11. A Human Rights screening exercise has been completed which concluded that no Convention Rights are engaged by the Statutory Rule, which is, therefore, deemed to comply with Section 24 of the Northern Ireland Act 1998.

EU Implications

12. The Statutory Rule fulfils the obligation under Article 5 of European Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources for the establishment and implementation of an action programme. Action programmes established under the Nitrates Directive are also a basic measure within River Basin Management Plans, thus contributing to the implementation of Directive 2000/60/EC of the European Parliament and of the Council (establishing a framework for Community action in the field of water policy) (the Water Framework Directive).

Parity or Replicatory Measure

13. Due to different timings in the establishment of action programmes, England, Scotland and Wales introduced revised action programmes and secured renewal of their Derogation Decision from the European Commission in 2013.

Additional Information

14. Not applicable.