

---

STATUTORY RULES OF NORTHERN IRELAND

---

**2015 No. 351**

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

**Citation and commencement**

1. These Regulations may be cited as the Water Framework Directive (Classification, Priority Substances and Shellfish Waters) Regulations (Northern Ireland) 2015 and shall come into operation on 23 October 2015.

**Interpretation**

2.—(1) In these Regulations—

“the 2003 Regulations” means the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003(1);

“biological boundary value” in respect of biological quality elements means the classification boundaries for ecological status as set out in Annex V of the Water Framework Directive and as agreed following the EU intercalibration exercise(2);

“biota taxon” means a particular aquatic taxon within the taxonomic rank “sub-phylum”, “class” or their equivalent;

“cyprinid waters” means a type of lake or river which, in the Department’s judgement, would support a sustainable fish population dominated by cyprinid species;

“Directive 2009/90/EC” means Commission Directive 2009/90/EC laying down, pursuant to Directive 2000/60/EC of the European Parliament and of the Council, technical specifications for chemical analysis and monitoring of water status(3);

“existing obligations” means the obligations (on environmental quality standards in the field of water policy) under Directive 2008/105/EC of the European Parliament and of the Council(4) (“the original Directive”) before it was amended by Directive 2013/39/EU of the European Parliament and of the Council(5) including, in particular, the achievement of good surface water chemical status in relation to the substances and the associated environmental quality standards listed in the original Directive;

“matrix” means a compartment of the aquatic environment, namely water, sediment or biota;

“mixing zone” means an area designated in accordance with Article 4 of the Directive;

“river basin district” has the same meaning as in the 2003 Regulations and, for the purposes of these regulations, shall include “international river basin district” as also defined in the 2003 Regulations;

---

(1) S.R. 2003 No.544

(2) EU Commission Decision 2013/480/EU

(3) OJ L201, 1.8.2009, p.36

(4) OJ L348, 16.12.2008, p.84

(5) OJ L226, 24.8.2013, p.1

“river basin management plan” means a plan prepared in accordance with regulation 12 of the 2003 Regulations;

“salmonid waters” means a type of lake or river which, in the Department’s judgement, would support a sustainable fish population dominated by salmonid species;

“shellfish waters” means any shellfish water classified under the 2003 Regulations;

“the Department” means the Department of the Environment;

“the Directive” means Directive [2008/105/EC](#) of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy<sup>(6)</sup> as amended by Directive 2013/39/EU of the European Parliament and of the Council<sup>(7)</sup>;

“the Water Framework Directive” means Directive [2000/60/EC](#) of the European Parliament and of the Council of 23 October 2000 establishing a Framework for Community Action in the Field of Water Policy<sup>(8)</sup> as last amended by Commission Directive 2014/101/EU<sup>(9)</sup>.

(2) Any word or expression used in these Regulations and the Directive, the Water Framework Directive, Directive 2009/90/EC, or the 2003 Regulations and not otherwise defined in these Regulations shall have the same meaning for the purposes of these Regulations as it has for the purposes of the applicable Directive or Regulations.

(3) The Interpretation Act (Northern Ireland) 1954<sup>(10)</sup> applies to these Regulations as it applies to an Act of the Assembly.

### Typology and Environmental Standards

3.—(1) The Department, in exercising the functions listed in paragraph (2) must in respect of the rivers, lakes, transitional waters and coastal waters—

- (a) assign a Type or Types in accordance with Part 1 of Schedule 1; and
- (b) apply environmental standards and biological boundary values to each river, lake, transitional water and coastal water, or part thereof, according to its assigned Type or Types, in accordance with Part 2 and Part 3 of Schedule 1.

(2) The functions listed in paragraph (1) are—

- (a) analysis and review of the characterisation of each river basin district in accordance with regulation 5(2) of the 2003 Regulations;
- (b) monitoring of the status of the water environment in each river basin district in accordance with regulation 9 of the 2003 Regulations;
- (c) setting of environmental objectives for each body of surface water in each river basin district in accordance with regulation 11(1)(b) of the 2003 Regulations; and
- (d) preparing programmes of measures to achieve those objectives in accordance with regulation 11(1)(b) of the 2003 Regulations.

### Environmental standards for priority substances

4. Without prejudice to existing obligations and subject to regulation 5, the Department must apply the environmental quality standards set out in Part 2 of Schedule 1 for the priority substances numbered 1-33 in Table 47 of Part 2 of Schedule 1 to surface waters or parts thereof.

(6) OJ L348, 16.12.2008, p.84

(7) OJ L226, 24.08.2013, P.1

(8) OJ L327, 22.12.2000, p.1-73; as amended by Decision [2455/2001/EC](#) (OJ L331, 15.12.2001, p.1), Directive [2008/32/EC](#) (OJ L81, 20.3.2008, p.60), Directive [2008/105/EC](#) (OJ L348, 24.12.2008, p.84), Directive [2009/31/EC](#) (OJ L140, 5.6.2009, p.114), Directive 2013/39/EU (OJ L226, 24.8.2013, p.1) and Commission Directive 2014/101/EU (OJ L311, 31.10.2014, p.32).

(9) OJ L311, 31.10.2014, p.32

(10) [1954 c.33 \(N.I.\)](#)

5. For the priority substances numbered 2, 5, 15, 20, 22, 23 and 28 in Table 47 of Part 2 of Schedule 1, with the aim of achieving good surface water chemical status in relation to those substances by 22 December 2021 by means of the programme of measures included in the river basin management plans (or an update of them), the environmental quality standards that apply are those applicable on the dates set out in column 4 of that Table. For all other priority substances numbered 1-33, the environmental quality standard set out in Table 47 of Part 2 of Schedule 1 applies from the date these Regulations come into force.

6. Without prejudice to existing obligations, for the priority substances numbered 34 to 45 in Table 47 of Part 2 of Schedule 1, with the aim of achieving good surface water chemical status in relation to those substances by 2027 and preventing deterioration in the chemical status of surface water bodies in relation to those substances, the Department must—

- (a) from 22 December 2018, apply the environmental quality standards set out in Table 47 of Part 2 of Schedule 1 for those substances;
- (b) by 22 December 2018, establish and submit to the Commission a supplementary monitoring programme and a preliminary programme of measures covering those substances;
- (c) establish a final programme of measures for those substances by 22 December 2021; and
- (d) make the final programme of measures fully operational as soon as possible after 22 December 2021, and not later than 22 December 2024.

7. Subject to regulation 8—

- (a) for the priority substances numbered 5, 15, 16, 17, 21, 28, 34, 35, 37, 43 and 44 in Table 47 of Part 2 of Schedule 1 the Department must apply the biota environmental quality standards laid down in column 9 of that Table;
- (b) for all other substances numbered in Table 47 of Part 2 of Schedule 1, the Department must apply the water environmental quality standards in accordance with that Table.

8.—(1) Subject to the conditions in paragraphs (2) and (3), the Department may, in relation to one or more categories of surface water, apply an environmental quality standard for a matrix other than the matrix specified in column 9 of Table 47 of Part 2 of Schedule 1 or, if applicable, an environmental quality standard for a biota taxon other than those specified in that Table.

(2) The first condition is that the Department applies either—

- (a) the relevant environmental quality standard laid down in Table 47 of Part 2 of Schedule 1; or
- (b) if there is no relevant environmental quality standard laid down in that Table for the alternative matrix or biota taxon, an environmental quality standard that offers at least the same level of protection as that provided by an environmental quality standard established for a matrix or biota taxon—
  - (i) in Table 47 of Part 2 of Schedule 1; and
  - (ii) according to technical knowledge and expert judgement, is equivalent to the alternative matrix or biota taxon.

(3) The second condition is that the Department's method of analysis for the chosen matrix or biota taxon fulfils the minimum performance criteria laid down in Article 4 of Directive 2009/90/EC. Where those criteria are not met for any matrix, the monitoring must be carried out using the best available techniques not entailing excessive costs and the method of analysis for the relevant substance must perform at least as well as that available for the matrix specified in regulation 7.

## Monitoring

9. Where a potential risk to, or via, the aquatic environment from acute exposure to one of the substances listed in Table 47 of Part 2 of Schedule 1 has been identified as a result of measured or estimated environmental concentrations or emissions, and where a biota or sediment environmental quality standard is being applied, the Department must—

- (a) monitor the surface water; and
- (b) where such environmental quality standards have been established, apply the MAC-EQS laid down in that Table.

10. Where, pursuant to Article 5 of Directive 2009/90/EC, the calculated mean value of a measurement, when carried out using the best available technique not entailing excessive costs, is referred to as “less than limit of quantification”, and the limit of quantification of that technique is above the environmental quality standard, the Department must not use the result for the substance for the purposes of assessing the overall chemical status of that water body.

11. For substances for which an environmental quality standard for sediment and/or biota is applied, the Department must, unless regulation 12 applies, monitor the substance in the relevant matrix at least once every year, unless technical knowledge and expert judgement justify another interval.

12. The Department may monitor the substances numbered 5, 21, 28, 30, 35, 37, 43 and 44 in Table 47 of Part 2 of Schedule 1 less intensively than is required for priority substances under regulation 11 and Annex V to the Water Framework Directive, provided that the monitoring—

- (a) is representative and a statistically robust baseline is available regarding the presence of those substances in the aquatic environment; and
- (b) takes place for each of the substances at least every three years, unless technical knowledge and expert judgement justify another interval.

13.—(1) On the basis of monitoring of surface water status carried out in accordance with Article 8 of the Water Framework Directive, the Department must conduct a long-term trend analysis of concentrations of those priority substances listed in Table 47 of Part 2 of Schedule 1 that tend to accumulate in sediment and/or biota, giving particular consideration to the substances numbered 2, 5, 6, 7, 12, 15, 16, 17, 18, 20, 21, 26, 28, 30, 34, 35, 36, 37, 43 and 44.

(2) The Department must take measures aimed at ensuring, subject to Article 4 of the Water Framework Directive, that such concentrations do not significantly increase in sediment and/or relevant biota.

14. The Department must carry out monitoring under regulation 13(1) in sediment and/or biota so as to provide sufficient data for a reliable long-term trend analysis. The monitoring should take place every three years, unless the Department’s technical knowledge and expert judgement justify another interval.

## Watch List

15.—(1) The Department must, within the deadlines set out in paragraph (3), monitor each substance in the watch list produced by the Commission (11) under Article 8b (1) and (2) of the Directive.

- (2) The monitoring referred to in paragraph (1) must be carried out—
  - (a) at selected monitoring stations over at least a 12-month period; and

- (b) in accordance with any Commission guidance published for these purposes under Article 8b of the 2008 Directive.
  - (3) The Department must select at least one monitoring station.
  - (4) The 12-month monitoring period must—
    - (a) for each substance included in the watch list as first established by Commission Implementing Decision (EU) 2015/495(12), commence on 24th October 2015; and
    - (b) for each substance included in subsequent lists, commence within six months of its inclusion in the list.
  - (5) In selecting representative monitoring stations, and the monitoring frequency and timing for each substance, the Department must—
    - (a) take into account the use patterns and possible occurrence of the substance; and
    - (b) ensure that monitoring is carried out at each station at least once per year.
- 16.** The Department may opt not to undertake additional monitoring under the watch list mechanism for a particular substance if—
- (a) the Department has sufficient, comparable, representative and recent monitoring data for the substance from existing monitoring a programmes or studies; and
  - (b) the substance was monitored using a methodology that satisfies the requirements of the technical guidelines developed by the Commission in accordance with Article 8b(5) of the Directive.
- 17.—(1)** The Department must report the results of the monitoring carried out pursuant to regulation 15 to the Commission in accordance with the following deadlines—
- (a) for the first watch list, within 21 months of the establishment of the watch list; and every 12 months thereafter while the substance is kept on the list.
  - (b) for each substance included in subsequent lists, within 21 months of the inclusion of the substance in the watch list, and every 12 months thereafter while the substance is kept on the list.
- (2) The reports referred to in paragraph (1) must include information on the representativeness of the monitoring stations and monitoring strategy.

### **Intermittent Standards**

**18.** The Department must apply the standards for intermittent discharges specified in Part 4 of Schedule 1.

### **Standards for shellfish waters**

**19.—(1)** The Department must apply the standards for shellfish waters specified in Table 1 of Part 1 of Schedule 5 and endeavour to respect the guideline standard for salinity in Table 2 of Part 1 of Schedule 5.

(2) The Department must endeavour to respect the guideline values and comments specified in Part 2 of Schedule 5.

### **Classification of surface waters**

**20.**—(1) Subject to paragraph (2), the Department must classify each body of surface water identified for the purposes of regulation 5 of the 2003 Regulations according to its ecological status, or its ecological potential as the case may be, and its chemical status.

(2) The Department must classify—

- (a) the ecological status of bodies of surface water in accordance with Part 1 of Schedule 2;
- (b) the chemical status of bodies of surface water in accordance with Part 2 of Schedule 2;
- (c) the ecological potential of heavily modified and artificial bodies of surface water in accordance with Part 3 of Schedule 2.

(3) The results of classification in accordance with paragraph (1) and paragraph (2) must be reported within each river basin management plan as follows—

- (a) a map for the relevant river basin district illustrating the classification of the ecological status for each body of surface water, colour-coded in accordance with Table 1 of Schedule 4;
- (b) a map for the relevant river basin district illustrating the classification of the ecological potential of each body of surface water designated as artificial or heavily modified, colour-coded in accordance with Table 2 of Schedule 4;
- (c) a black dot on the relevant map produced under sub-paragraphs (a) and (b) to indicate each body of surface water where failure to achieve good status or good ecological potential is due to non-compliance with one or more of the environmental quality standards that have been established for relevant specific pollutants;
- (d) a map for the relevant river basin district illustrating the classification of chemical status for each body of surface water, colour-coded in accordance with Table 3 of Schedule 4.

(4) The overall status of bodies of surface water must be determined in accordance with Part 5 of Schedule 2.

(5) The Department must review the classification required by paragraph (1) at least once in every six years in accordance with the requirements of the Water Framework Directive.

### **Classification of Groundwater**

**21.**—(1) The Department must classify each body of groundwater identified for the purposes of regulation 5 of the 2003 Regulations according to its chemical status in accordance with regulation 9 of the Groundwater Regulations (Northern Ireland) 2009(**13**).

(2) The Department must classify each body of groundwater identified for the purposes of regulation 5 of the 2003 Regulations according to its quantitative status in accordance with Schedule 3.

(3) The results of classification in accordance with paragraph (1) and paragraph (2) must be reported within each river basin management plan as follows—

- (a) a map for the relevant river basin district illustrating the classification of the chemical status for each body of groundwater, colour-coded in accordance with Table 4 of Schedule 4;
- (b) a map for the relevant river basin district illustrating the classification of the quantitative status for each body of groundwater, colour-coded in accordance with Table 5 of Schedule 4.

(4) The Department must review the classification required by paragraphs (1) and (2) at least once in every six years in accordance with the requirements of the Water Framework Directive.

### **Designation of Mixing Zones**

**22.**—(1) The Department may designate mixing zones adjacent to points of discharge.

(2) Concentrations of one or more substances listed in Table 47 of Part 2 of Schedule 1 may exceed the relevant standards within mixing zones if they do not affect the compliance of the rest of the body of surface water with those standards.

(3) The extent of any mixing zone must be restricted to the proximity of the point of discharge and must be proportionate, having regard to concentrations of pollutants at the point of discharge and any conditions contained within the discharge consent or permit.

(4) The Department must include information about designated mixing zones in river basin management plans. The information must include a description of:

- (a) the approaches and methodologies applied to define mixing zones;
- (b) measures taken with a view to reducing the extent of mixing zones in the future.

### **Inventory of emissions, discharges and losses**

**23.**—(1) The Department must continue to maintain an inventory, including maps if available, of emissions, discharges and losses of all substances and pollutants listed in Table 47 of Part 2 of Schedule 1 for each river basin district or part of a river basin district, including their concentrations in sediment and biota, as appropriate.

(2) The Department must continue to update the inventories as part of the review of the analyses specified in Article 5(2) of the Water Framework Directive, and must publish the updated inventories in the corresponding river basin management plan.

(3) The reference period for the establishment of values in the inventories referred to in paragraph 1 must be the year before that analysis is to be completed, with the exception of priority substances or pollutants covered by Directive [91/414/EEC](#), where the entries may be calculated as the average of the three years before the completion of that analysis.

### **Transboundary Pollution**

**24.**—(1) If the Department is found to be in breach of its obligations under the Directive as a result of the exceedance of an environmental quality standard it shall be a defence for the Department if it can demonstrate that—

- (a) the exceedance was due to a source of pollution outside its jurisdiction;
- (b) it was unable as a result of such transboundary pollution to take effective measures to comply with the relevant environmental quality standard; and
- (c) it had applied the coordination mechanisms set out in Article 3 of the Water Framework Directive and, as appropriate, taken advantage of the provisions of Article 4(4), (5) and (6) of that Directive for those water bodies affected by transboundary pollution.

(2) The Department must provide evidence to the Commission that it has taken measures to address the issue of transboundary pollution and must record these measures in the relevant river basin management plan.

### **Coordination**

**25.**—(1) Where the result of assessments undertaken by the Commission, in accordance with Article 7a of the Directive, show that additional measures may be necessary to facilitate compliance

with the Water Framework Directive in relation to a particular substance approved pursuant to Regulation (EC) No 1107/2009 of the European Parliament and of the Council<sup>(14)</sup> as amended from time to time or Regulation (EU) No 528/2012 of the European Parliament and of the Council<sup>(15)</sup> as amended from time to time, the competent authority must apply—

- (a) Article 44 of Regulation (EC) No 1107/2009; or
- (b) Article 48 of Regulation (EU) No 528/2012,

as appropriate, to that substance, or any product containing that substance.

(2) In applying the provisions of the relevant Regulations referred to in Article 7a of the Directive, the competent authority must take into account any risk evaluations and socio-economic or cost-benefit analyses required under those Regulations, including as regards the availability of alternatives.

(3) The competent authority for the purposes of this regulation is the authority defined—

- (a) in respect of Regulation (EC) No 1107/2009, under regulation 3 of the Plant Protection Products Regulations (Northern Ireland) 2011<sup>(16)</sup>;
- (b) in respect of Regulation (EU) No 528/2012, under regulation 5 of the Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations (Northern Ireland) 2013<sup>(17)</sup>.

### **Information to be included in River Basin Management Plan**

**26.**—(1) The Department must include the following information in the updated river basin management plans produced in accordance with Article 13(7) of the Water Framework Directive—

- (a) a table presenting the limits of quantification of the methods of analysis applied, and information on the performance of those methods in relation to the minimum performance criteria in Article 4 of Directive 2009/90/EC;
- (b) for the substances for which the option in regulation 8 is used—
  - (i) the reasons and basis for using that option;
  - (ii) where relevant, the alternative environmental quality standard established evidence that those environmental quality standards would offer at least the same level of protection as the environmental quality standards laid down in Table 47 of Part 2 of Schedule 1, including the data and methodology used to derive the environmental quality standards, and the categories of surface water to which they would apply;
  - (iii) for comparison with the information referred to in paragraph (a), the limits of quantification of the methods of analysis for the matrices specified in Table 47 of Part 2 of Schedule 1, including information on the performance of those methods in relation to the minimum performance criteria laid down in Article 4 of Directive 2009/90/EC.
- (c) justification for the frequency of monitoring applied in accordance with regulations 11 and 12, if monitoring intervals are longer than one year.

(2) The Department must take measures to ensure that the updated river basin management plans, containing the results and impact of the measures taken to prevent chemical pollution of surface water, and the interim report describing progress on the implementation of the planned programme of measures in accordance with Article 15(3) of the Water Framework Directive, are

<sup>(14)</sup> OJ L309, 24.11.2009, p.1, as amended by Council Regulation (EU) No 518/2013 (OJ L158, 10.6.2013, p.72) and Regulation (EU) No 652/2014 of the European Parliament and of the Council (OJ L189, 27.6.2014, p.1)

<sup>(15)</sup> OJ L167, 27.6.2012, p.1, as last amended by Regulation (EU) No 334/2014 of the European Parliament and of the Council (OJ L103, 5.4.2014, p.22)

<sup>(16)</sup> S.R. 2011 No.295

<sup>(17)</sup> S.R. 2013 No.206



provided through a central portal which is accessible to the public electronically in accordance with Article 7(1) of Directive [2003/4/EC](#) of the European Parliament and of the Council on public access to environmental information<sup>(18)</sup>.

### **Revocations and Savings**

**27.** The Water Framework Directive (Priority Substances and Classification) Regulations (Northern Ireland) 2011<sup>(19)</sup> are revoked.

**28.** The Water Framework Directive (Priority Substances and Classification) (Amendment) Regulations (Northern Ireland) 2012<sup>(20)</sup> are revoked.

**29.** The Water Framework Directive (Priority Substances and Classification) (Amendment) Regulations (Northern Ireland) 2015<sup>(21)</sup> are revoked.

Sealed with the Official Seal of the Department of the Environment on 2nd October 2015.



*Dave Foster*  
A senior officer of the Department of the  
Environment

---

<sup>(18)</sup> OJ L41, 14.2.2003, p.26

<sup>(19)</sup> [S.R. 2011 No.10](#)

<sup>(20)</sup> [S.R. 2012 No.442](#)

<sup>(21)</sup> [S.R. 2015 No.45](#)