
STATUTORY RULES OF NORTHERN IRELAND

2017 No. 81

The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017

PART 1

Introductory

Citation, commencement and application

1. These Regulations—
 - (a) may be cited as the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017 and shall come into operation on 22nd May 2017; and
 - (b) shall apply only in relation to river basin districts identified in accordance with regulation 4(1).

Interpretation

- 2.—(1) In these Regulations—
 - “artificial or heavily modified body of surface water” means a body of water designated as artificial or heavily modified in accordance with regulation 15;
 - “body of water” means a body of groundwater or a body of surface water;
 - “drinking water protected area” means an area of water identified in accordance with regulation 8;
 - “environmental objectives”, in relation to the river basin district and the part of each international river basin district falling within Northern Ireland, means the objectives set under regulation 12 in accordance with regulation 13;
 - “international river basin district” means a river basin district lying partly in Northern Ireland and partly in the Republic of Ireland;
 - “Northern Ireland” has the meaning given by section 98 of the Northern Ireland Act 1998^{M1};
 - “principal offices” means the offices of the Department at 17 Antrim Road, Tonagh, Lisburn, BT28 3AL;
 - “programme of measures”, in relation to the river basin district and the part of the international river basin district falling within Northern Ireland, means the programme of measures established under regulation 12 in accordance with regulation 20;
 - “protected area” means an area included on a register in accordance with regulation 10;
 - “public body” includes Northern Ireland departments, district councils and statutory undertakers, any body established or constituted under a statutory provision and any persons or body who, as a public body and not for their own profit, act under any statutory provision for the improvement of any place or the production or supply of any commodity or service;

“relevant functions” means functions under these Regulations and, so far as material, the enactments listed in Schedule 2;

“river basin district” means the area of land and sea identified by regulation 4(1), made up of a river basin or neighbouring river basins, together with associated groundwater, transitional waters and coastal water, being the main unit for the management of river basins for the purposes of the Directive;

“river basin management plan” means a plan to which Part 6 applies;

“shellfish” means any bivalve or gastropod mollusc;

“shellfish water objectives” means the objectives referred to in regulation 13(4);

“shellfish water protected area” means an area of water designated in accordance with regulation 9;

“status”, in relation to a body of water, is a reference to its surface water status or groundwater status (as the case may be);

“the 2003 Regulations” means the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003 ^{M2};

“the Department” means the Department of Agriculture, Environment and Rural Affairs;

“the Directive” means Directive [2000/60/EC](#)^{M3} of the European Parliament and of the Council of 23rd October 2000 establishing a framework for Community action in the field of water policy as last amended by Commission Directive [2014/101/EU](#) ^{M4};

“the EQS Directive” means Directive [2008/105/EC](#) of the European Parliament and of the Council on environmental quality standards in the field of water policy ^{M5} as amended by Directive [2013/39/EU](#) of the European Parliament and of the Council ^{M6};

“the Groundwater Directive” means Directive [2006/118/EEC](#) of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration ^{M7} as amended by Commission Directive [2014/80/EU](#) ^{M8};

“the table of priority substances” means the table in Part A of Annex I to the EQS Directive;

“water undertaker” has the same meaning as “relevant undertaker” in the Water and Sewerage Services Order (Northern Ireland) 2006 ^{M9}.

(2) Expressions used in both these Regulations and the Directive and which are listed in Schedule 1 have the meaning given there.

(3) Expressions used in both these Regulations and the Directive and not otherwise defined in these Regulations have the same meaning for the purposes of these Regulations as they do for the purposes of the Directive.

(4) The Interpretation Act (Northern Ireland) 1954 ^{M10} shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

[^{F1}(5) For the purposes of these Regulations, references to the Directive, the Groundwater Directive and the EQS Directive, or a provision of one of those Directives, are to be read in accordance with Schedule 5 (Modifications of Directives).]

Textual Amendments

- F1** [Reg. 2\(5\)](#) inserted (31.12.2020) by [The Water \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/112), regs. 1(1), **12(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Marginal Citations

- M1** 1998 c. 47
- M2** S.R. 2003 No. 544
- M3** OJ L327, 22.12.2000, p.1-73
- M4** OJ L311, 31.10.2014, p.32
- M5** OJ L348, 24.12.2008, p.84
- M6** OJ L226, 24.08.2013, p.1
- M7** OJ L372, 27.12.2006, p.19
- M8** OJ L182, 21.06.2014, p.52-55
- M9** S.I. 2006 No. 3336 (N.I. 21)
- M10** 1954 c.33 (N.I.)

Duties on Departments

3.—(1) The Department and the Department for Infrastructure must exercise their relevant functions in a manner which secures compliance with the requirements of the Directive, the EQS Directive and the Groundwater Directive.

(2) Without prejudice to the generality of paragraph (1), the Department must determine an authorisation so as, in particular—

- (a) to prevent deterioration of the surface water status or groundwater status of a body of water (subject to the application of regulations 18 and 19); and
- (b) otherwise to support the achievement of the environmental objectives set for a body of water (subject to the application of regulations 16 to 19).

(3) In paragraph (2) “determine an authorisation” means decide whether to grant, vary or revoke or impose conditions (and if so which conditions) on—

- (a) a consent issued under the Water (Northern Ireland) Order 1999 ^{M11};
- (b) an authorisation under the Groundwater Regulations (Northern Ireland) 2009 ^{M12};
- (c) a licence issued under the Waste Management Licensing Regulations (Northern Ireland) 2003 ^{M13};
- (d) a permit issued under the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 ^{M14};
- (e) a registration or authorisation under the Radioactive Substances Act 1993 ^{M15};
- (f) a licence for an abstraction or impoundment under the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006 ^{M16}.

(4) In exercising its relevant functions, the Department must ensure that the requirements of the Directive for the achievement of its environmental objectives are co-ordinated and must, in particular—

- (a) ensure that the programme of measures is co-ordinated for the whole of the river basin district; and
- (b) consult the relevant competent authority in the Republic of Ireland to ensure co-ordination of the programme of measures for the whole of each international river basin district.

Marginal Citations

- M11** S.I. 1999/662 (N.I. 6)
- M12** S.R. 2009 No. 254

M13 S.R. 2003 No.493
M14 S.R. 2013 No.160
M15 1993 c.12
M16 S.R. 2006 No. 482

PART 2

River basin districts and water bodies

River basin district and international river basin districts

4.—(1) For the purposes of these regulations, the area shown on the official map and named as “North Eastern” is identified as a river basin district and the areas shown on the official map and named as “Neagh Bann”, “North Western” and “Shannon” are identified as international river basin districts.

(2) The Department must publish the official map on its website.

(3) The Department must make the official map available to the public at its principal offices.

(4) In this regulation, “the official map” means the map of river basin districts produced by the Department and published on its website.

Characterisation of river basin district and international river basin districts

5.—(1) The Department must maintain and periodically review and (if necessary) update, in accordance with Annex II to the Directive (characterisation of waters)—

(a) an analysis of the characteristics of each river basin district and the part of each international river basin district falling within Northern Ireland; and

(b) a review of the impact of human activity on the status of surface water and groundwater in the river basin district and the part of each international river basin district falling within Northern Ireland.

(2) A review and any update must be done—

(a) by 22nd December 2019; and

(b) subsequently, by 22nd December of the sixth year following that date and of each sixth year following that.

(3) In relation to a review of the characteristics of each river basin district and part of each international river basin district falling within Northern Ireland in accordance with paragraph 1(a), the Department must include in the relevant river basin management plan an explanation of the approach taken to the use of System A or B in paragraphs 1.1 and 1.2 to 1.2.4 (characterisation of surface water body types) of Annex II to the Directive.

Classification of water bodies

6. The Department must classify the status of bodies of water in accordance with Annex V to the Directive.

Economic analysis of water use in river basin district and international river basin districts

7.—(1) The Department must maintain and periodically review and (if necessary) update, in accordance with Annex III to the Directive (economic analysis), an economic analysis of water use

in the river basin district and the part of each international river basin district falling within Northern Ireland.

- (2) A review and any update must be done—
 - (a) by 22nd December 2019; and
 - (b) subsequently, by 22nd December of the sixth year following that date and of each sixth year following that.
- (3) The Department for Infrastructure must, in accordance with a timetable established by the Department—
 - (a) provide the Department with so much of the information specified in paragraph (a) of Annex III to the Directive as relates to its functions;
 - (b) review and, if necessary, update that information; and
 - (c) provide any such updated information to the Department.

PART 3

Protected areas

Bodies of water used for the abstraction of drinking water

8.—(1) The Department and the water undertaker, acting jointly, must identify any body of water (a “drinking water protected area”) within the river basin district and the part of each international river basin district falling within Northern Ireland which—

- (a) is used for the abstraction of water intended for human consumption and either—
 - (i) provides more than 10 cubic metres of water per day as an average; or
 - (ii) serves more than 50 persons; or
- (b) is intended to be used for the future abstraction of water intended for human consumption to the extent referred to in sub-paragraph (a)(i) or (ii).

(2) For each drinking water protected area, the programme of measures for the river basin district and the part of each international river basin district falling within Northern Ireland within which the body of water is located must include measures with the aim of avoiding deterioration in the quality of the water in that area, in order to reduce the level of purification treatment required in the production of drinking water abstracted from it.

(3) In this regulation and regulation 11, “water intended for human consumption” has the same meaning as in Council Directive [98/83/EC](#) on the quality of water intended for human consumption, as amended ^{M17}.

Marginal Citations

M17 O.J. L330, 5.12.98, p.32

Designation of shellfish waters

9.—(1) The Department may designate an area of coastal or transitional water within the river basin district and the part of each international river basin district falling within Northern Ireland, as a shellfish water protected area by including it in the relevant list.

(2) An area may not be included in the relevant list unless the Department considers it necessary or desirable to do so for the protection or development of economically significant shellfish production.

(3) In relation to a shellfish water protected area in a river basin district which is wholly in Northern Ireland, the relevant list is the list entitled Shellfish Waters (Northern Ireland) 2017 and dated 27th April 2017.

(4) In relation to a shellfish water protected area in the part of each international river basin district falling within Northern Ireland, the relevant list is the list entitled Shellfish Waters (Northern Ireland – International River Basin District) 2017 and dated 27th April 2017.

(5) The Department must periodically review and, where appropriate, revise designations made in accordance with paragraph (1).

(6) A review and any revision must be done—

- (a) by 22nd December 2021; and
- (b) subsequently, by 22nd December of the sixth year following that date and of each sixth year following that.

(7) The Department must—

- (a) publish the relevant list on its website; and
- (b) make the relevant list available to the public at its principal offices.

Register of protected areas

10.—(1) The Department must, for the river basin district and the part of each international river basin district falling within Northern Ireland, maintain, review and keep up to date a register of the protected areas lying (whether wholly or partly) within the district.

(2) The register must include the following protected areas—

- (a) a drinking water protected area;
- (b) an area or body of water for the time being designated or otherwise identified as requiring special protection in accordance with [F2retained EU law] providing for the protection of surface water and groundwater or for the conservation of habitats or species directly depending on water^{F3} ..., including, in particular—
 - (i) areas designated for the protection of economically significant aquatic species (including shellfish water protected areas);
 - (ii) bodies of water designated as recreational waters;
 - (iii) nutrient-sensitive areas; and
 - (iv) areas designated for the protection of habitats or species where the maintenance or improvement of the status of water is an important factor in the protection of the habitats or species.

Textual Amendments

F2 Words in [reg. 10\(2\)\(b\)](#) substituted (31.12.2020) by [The Water \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/112\)](#), regs. 1(1), [12\(3\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)

F3 Words in [reg. 10\(2\)\(b\)](#) omitted (31.12.2020) by virtue of [The Water \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/112\)](#), regs. 1(1), [12\(3\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)

PART 4

Monitoring

Monitoring programmes

11.—(1) The Department must maintain and keep under review programmes for monitoring water status in order to establish a coherent and comprehensive overview of water status within each river basin district and the part of each international river basin district falling within Northern Ireland.

(2) The monitoring programmes must—

(a) in relation to surface water cover—

(i) the volume and level or rate of flow to the extent relevant to ecological and chemical status and ecological potential; and

(ii) ecological and chemical status and ecological potential;

(b) in relation to groundwater, cover chemical and quantitative status; and

(c) in relation to protected areas—

(i) cover any supplementary monitoring required by [^{F4}retained EU law] in accordance with which the area is protected;

(ii) provide for the monitoring of each drinking water protected area which provides on average more than 100m³ per day of drinking water intended for human consumption;

(iii) for each shellfish water protected area, enable a reliable assessment to be made of whether the shellfish water objectives have been or will be achieved.

(3) The monitoring programme must comply with the following provisions of Annex V to the Directive—

(a) points 1.3 to 1.3.4 and 1.3.6 (monitoring of ecological status and chemical status for surface waters);

(b) point 1.3.5 (monitoring of drinking water abstraction points and habitats and species protection areas);

(c) points [^{F5}1.4.1 (excluding points (iv) to (ix)), 1.4.2 and 1.4.3] (classification and presentation of ecological status, chemical status and ecological potential);

(d) points 2.2 to 2.2.4 (monitoring of groundwater quantitative status);

(e) points 2.4 to 2.4.4 (monitoring of groundwater chemical status); and

(f) points 2.4.5 and 2.5 (interpretation and presentation of groundwater status).

[^{F6}(4) A requirement in any of the provisions of Annex 5 to the Directive listed in paragraph (3) to provide a map is to be read (where this is not otherwise specified) as a requirement to include the map in the relevant river basin management plan.]

Textual Amendments

F4 Words in reg. 11(2)(c)(i) substituted (31.12.2020) by The Water (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/112), regs. 1(1), **12(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F5 Words in reg. 11(3)(c) substituted (31.12.2020) by The Water (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/112), regs. 1(1), **12(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

F6 Reg. 11(4) inserted (31.12.2020) by The Water (Amendment) (Northern Ireland) (EU Exit) Regulations 2019 (S.I. 2019/112), regs. 1(1), **12(4)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

PART 5

Environmental Objectives and Programme of Measures

Procedure for setting environmental objectives and programmes of measures

- 12.—(1) The Department must prepare proposals for—
- (a) environmental objectives for the river basin district and the part of each international river basin district falling within Northern Ireland in accordance with regulation 13; and
 - (b) a programme of measures to be applied in order to achieve those objectives, in accordance with regulation 20.
- (2) In preparing proposals in accordance with paragraph (1), the Department must—
- (a) take account of the characterisation of, and economic analysis of water use in, the relevant river basin district and part of each international river basin district falling within Northern Ireland carried out or updated in accordance with regulations 5 and 7; and
 - (b) take such steps as it considers appropriate to—
 - (i) publicise its proposals;
 - (ii) provide opportunities for the general public and those persons and bodies likely to be interested in or affected by its proposals to participate in discussion and the exchange of information or views in relation to the preparation of those proposals; and
 - (iii) consult the persons and bodies referred to in sub-paragraph (b)(ii) on those proposals.
- (3) The Department must ensure that, for the river basin district and the part of each international river basin district falling within Northern Ireland, the environmental objectives and programme of measures are periodically reviewed and, where appropriate, updated —
- (a) by 22nd December 2021; and
 - (b) subsequently, by 22nd December of the sixth year following that date and of each sixth year following that.
- (4) Where a programme of measures is updated in accordance with paragraph (3), any new or revised measures must be made operational within three years of that updating.

The environmental objectives

- 13.—(1) The environmental objectives referred to in regulation 12 are, subject to regulations 14 to 19, the following objectives for the relevant type of water body or area.
- (2) For surface water bodies, the objectives are to—
- (a) prevent deterioration of the status of each body of surface water;
 - (b) protect, enhance and restore each body of surface water (other than an artificial or heavily modified body of surface water) with the aim of achieving good ecological status and (subject to paragraph (3)) good surface water chemical status (if not already achieved) by 22nd December 2021;
 - (c) protect and enhance each artificial or heavily modified body of surface water with the aim of achieving good ecological potential and (subject to paragraph (3)) good surface water chemical status (if not already achieved) by 22nd December 2021;
 - (d) aim to progressively reduce pollution from priority substances and aim to cease or phase out emissions, discharges and losses of priority hazardous substances.
- (3) The objectives in paragraph (2)(b) and (c) are to be read as though they referred to achieving good surface water chemical status—

- (a) in relation to substances 2, 5, 15, 20, 22, 23 and 28 in the table of priority substances, by 22nd December 2021;
- (b) in relation to substances 34 to 55 in the table of priority substances, by 22nd December 2027.

(4) For shellfish water protected areas, in addition to the objectives under paragraph (2) for the surface water bodies in which they are located, the objectives are such objectives as are necessary or desirable to improve or protect the shellfish water protected area in order to support shellfish life and growth and to contribute to the high quality of shellfish products suitable for human consumption as the Department may determine.

(5) For groundwater bodies, the objectives are to—

- (a) prevent deterioration of the status of each body of groundwater;
- (b) prevent or limit the input of pollutants into groundwater;
- (c) protect, enhance and restore each body of groundwater, and ensure a balance between abstraction and recharge of groundwater, with the aim of achieving good groundwater chemical status and good groundwater quantitative status (if not already achieved) by 22nd December 2021;
- (d) reverse any significant and sustained upward trend in the concentration of any pollutant resulting from the impact of human activity in order to progressively reduce pollution of groundwater.

(6) For each protected area falling under regulation 10, other than a shellfish water protected area, the objective is to achieve compliance with any standards and objectives required by or under [^{F7}the retained EU law] in accordance with which the individual area or body is protected—

- (a) by 22nd December 2021 (if not already achieved); or
- (b) if different, any date for compliance set in [^{F8}the relevant retained EU law].

(7) Where two or more of the objectives set under this regulation apply to the same body of water, or the same part of a body of water, the most stringent objective applies.

Textual Amendments

- F7** Words in [reg. 13\(6\)](#) substituted (31.12.2020) by [The Water \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/112\)](#), [regs. 1\(1\)](#), [12\(5\)\(a\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in [reg. 13\(6\)\(b\)](#) substituted (31.12.2020) by [The Water \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/112\)](#), [regs. 1\(1\)](#), [12\(5\)\(b\)](#); 2020 c. 1, Sch. 5 para. 1(1)

Environmental objectives: application of regulations 15 to 19

14. Regulations 15 to 19 must be applied in a way that—

- (a) does not permanently exclude or compromise the achievement of the environmental objectives set in relation to any other body of water within the same river basin district or part of each international river basin district falling within Northern Ireland;
- (b) is consistent with [^{F9}any other retained EU law];
- (c) guarantees at least the same level of protection (for bodies of water) as the EU instruments repealed by Article 22 of the Directive.

Textual Amendments

- F9** Words in [reg. 14\(b\)](#) substituted (31.12.2020) by [The Water \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/112\)](#), [regs. 1\(1\), 12\(6\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Designation of bodies of surface water as artificial or heavily modified bodies of surface water

15.—(1) The Department may designate a body of surface water as artificial or heavily modified if it considers that—

- (a) the changes to the hydromorphological characteristics of that body which would be necessary for achieving good ecological status would have significant adverse effects on—
 - (i) the wider environment;
 - (ii) navigation, including port facilities, or recreation;
 - (iii) activities for the purposes of which water is stored, such as drinking water supply, power generation or irrigation;
 - (iv) water regulation, flood protection, land drainage; or
 - (v) other sustainable human development activities which the Department considers are of equal importance to the matters in paragraphs (i) to (iv); and
- (b) the beneficial objectives served by the artificial or modified characteristics of the water body cannot, for reasons of technical feasibility or disproportionate costs, reasonably be achieved by other means, which are a significantly better environmental option.

(2) When the Department designates a body of surface water as artificial or heavily modified it must—

- (a) mention the designation, and the reasons for it, in the relevant river basin management plan for the river basin district or part of each international river basin district falling within Northern Ireland in which that body is located; and
- (b) review the designation when reviewing and updating the relevant river basin management plan in accordance with regulation 26.

Extended deadlines for environmental objectives

16.—(1) The deadline by which an environmental objective referred to in regulation 13(2)(b) or (c), (5)(c) or (6) must be achieved may be extended for the purposes of the phased achievement of the environmental objectives for a body of water, provided that no further deterioration occurs in the affected body of water when the conditions set out in paragraphs (2) to (5) are or will be met.

(2) All of the necessary improvements in the status of a body of water cannot reasonably be achieved within the timescales set out in the provisions of regulation 13 mentioned in paragraph (1) for one or more of the following reasons—

- (a) the scale of improvements required can only be achieved in phases exceeding the timescale, for reasons of technical feasibility;
- (b) completing the improvements within the timescale would be disproportionately expensive;
- (c) natural conditions do not allow timely improvement in the status of the body of water.

(3) Subject to paragraph (4), a deadline must not be extended beyond 22nd December 2027, except in cases where the natural conditions are such that the environmental objectives cannot be achieved by that date.

(4) Paragraph (3) does not apply to the deadline specified in regulation 13(2) for an objective of aiming to achieve good surface water chemical status—

- (a) in relation to substances 2, 5, 15, 20, 22, 23 and 28 in the table of priority substances, which may be extended until 22nd December 2033;
- (b) in relation to substances 34 to 45 in the table of priority substances, which may be extended until 22nd December 2039.

(5) The relevant river basin management plan must set out—

- (a) the extension of the deadline, and explain the reasons for it;
- (b) a summary of the measures to be applied to achieve the environmental objectives set pursuant to regulation 12 which are envisaged as necessary to bring the body of water progressively to the required status by the extended deadline; and
- (c) the reasons for any significant delay in making these measures operational, and the expected timetable for their implementation.

(6) Following an extension in accordance with paragraph (1), the next update of the relevant river basin management plan, in accordance with regulation 26, must include a review of the implementation of the measures referred to in paragraph (4) and a summary of any additional measures necessary for the purposes set out in that paragraph.

Setting less stringent objectives

17.—(1) Less stringent environmental objectives than those required by regulation 13(2)(b) or (c), (4), (5)(c) or (6) may be set for a specific body of water where—

- (a) that body of water is so affected by human activity or its natural condition is such that the achievement of the environmental objectives set would not be feasible or would be disproportionately expensive; and
- (b) all the conditions in paragraphs (2) to (5) are or will be met.

(2) The environmental and socio-economic needs served by such human activity cannot be achieved by other means which are a significantly better environmental option not entailing disproportionate costs.

(3) Where the specific body of water is a body of surface water, the highest ecological and chemical status possible is achieved, given impacts that could not reasonably have been avoided due to the nature of the human activity or pollution.

(4) Where the specific body of water is a body of groundwater, the least possible changes to good groundwater status is ensured, given impacts that could not reasonably have been avoided due to the nature of the human activity or pollution.

(5) No further deterioration occurs in the status of the affected body of water.

(6) The establishment of a less stringent environmental objective, and the reasons for it, must be set out in the relevant river basin management plan.

(7) The review of the less stringent environmental objectives in accordance with regulation 12(3) must include consideration of whether a more stringent objective should be set.

Natural causes or force majeure

18.—(1) A temporary deterioration in the status of a body of water is not a breach of the environmental objectives set for it in accordance with regulation 12 if—

- (a) it is the result of—

- (i) circumstances of natural cause or force majeure which are exceptional or could not reasonably have been foreseen, in particular extreme floods or prolonged droughts; or
- (ii) circumstances due to accidents which could not reasonably have been foreseen; and
- (b) all the conditions in paragraphs (2) to (4) are or will be met.
- (2) All practicable steps are taken—
 - (i) to prevent further deterioration in the status of the affected body of water; and
 - (ii) so as not to compromise the achievement of the environmental objectives for any body of water not affected by the circumstances mentioned in paragraph (1)(a).
- (3) The conditions under which circumstances are exceptional or could not reasonably have been foreseen, including the adoption of the appropriate indicators, are stated in the river basin management plan (or the next update of it).
- (4) The measures to be taken under such exceptional circumstances are to be included in the programme of measures and will not compromise the recovery of the quality of the body of water once the circumstances are over.
- (5) Where paragraph (1) applies, the effects of the circumstances mentioned in paragraph (1)(a) that are exceptional or that could not reasonably have been foreseen must be reviewed annually and, subject to regulation 16, all practicable measures must be taken with the aim of restoring the body of water as soon as reasonably practicable to its status prior to the effects of those circumstances.
- (6) The next update of the relevant river basin management plan, in accordance with regulation 26, must include a summary of the effects of the circumstances mentioned in paragraph (1)(a) and of the measures taken or to be taken.

Modifications to physical characteristics of water bodies

- 19.—**(1) A failure to achieve good groundwater status, good ecological status or, where relevant, good ecological potential, or to prevent deterioration in the status of a body of surface water or a body of groundwater is not a breach of the environmental objectives set for it in accordance with regulation 12 if—
- (a) the failure is the result of new modifications to the physical characteristics of the body of surface water or alterations to the level of the body of groundwater; and
 - (b) all the conditions in paragraphs (3) to (5) are or will be met.
- (2) A failure to prevent deterioration from high status to good status of a body of surface water is not a breach of the environmental objectives set for it in accordance with regulation 12 if—
- (a) the failure is the result of new sustainable development activities; and
 - (b) all the conditions in paragraphs (3) to (5) are or will be met.
- (3) All practicable steps are taken to mitigate the adverse impact on the status of the body of water.
- (4) At least one of the following circumstances apply—
- (a) the reasons for the modifications or alterations, or for the sustainable development activities, are of overriding public interest;
 - (b) the benefits to the environment and to society of achieving the environmental objectives are outweighed by the benefits of the new modifications or alterations, or of the sustainable development activities, to human health, to the maintenance of human safety, or (in the case of modifications or alterations) to sustainable development.
- (5) The beneficial objectives served by the modifications or alterations, or by the sustainable development activities, of the body of water cannot, for reasons of technical feasibility or

disproportionate costs, be achieved by other means which are a significantly better environmental option.

(6) Where paragraph (1) or (2) applies, the reasons for the modifications or alterations, or for the sustainable development activities, must be specifically set out and explained in the relevant river basin management plan, and the environmental objectives must be reviewed every six years.

Content of programmes of measures

20.—(1) Each programme of measures must include basic measures and, where necessary, supplementary measures (see paragraph 4).

(2) The basic measures must comply with Article 11(3) of the Directive and must, in particular, include the following—

- ^{F10}(a)
- (b) measures in accordance with regulation 23(1) (charges for water services);
- (c) measures to promote an efficient and sustainable water use to avoid compromising the achievement of the environmental objectives;
- (d) the measures required by regulation 8(2) (drinking water protected areas);
- (e) measures to control the abstraction of fresh surface water and groundwater, and impoundment of fresh surface water, including a register of water abstractions and a requirement for prior authorisation for abstraction and impoundment;
- (f) measures to control the artificial recharge or augmentation of any body of groundwater, including a requirement for prior authorisation;
- (g) for point source discharges liable to cause pollution, a requirement for prior regulation or prior authorisation which sets emission controls for the pollutants concerned;
- (h) for diffuse sources liable to cause pollution, measures to prevent or control the input of pollutants;
- (i) measures to address any other significant adverse impacts on the status of water, including in particular measures to ensure that the hydromorphological conditions of each body of surface water are consistent with the achievement of the required ecological status or good ecological potential for any artificial or heavily modified body of surface water;
- (j) a prohibition of direct discharges of pollutants into groundwater, except for the following discharges which may be authorised—
 - (i) injection of water containing only substances resulting from operations for exploration and extraction of hydrocarbons or mining activities, and injection of water for technical reasons, into geological formations—
 - (aa) from which hydrocarbons or other substances have been extracted; or
 - (bb) which, for natural reasons, are permanently unsuitable for other purposes;
 - (ii) reinjection of pumped groundwater from mines and quarries or associated with the construction or maintenance of civil engineering works;
 - (iii) injection of natural gas or liquefied petroleum gas for storage purposes into—
 - (aa) geological formations which, for natural reasons, are permanently unsuitable for other purposes; or
 - (bb) geological formations where there is an overriding need for security of gas supply and where the injection is such as to prevent any present or future danger of deterioration in the quality of any receiving groundwater;

- (iv) injection of carbon dioxide streams for storage purposes into geological formations which, for natural reasons, are permanently unsuitable for other purposes, provided that such injection is—
- (aa) made in accordance with [^{F11}Chapter 3 of Part 1 of the Energy Act 2008 and other retained EU law which transposed Directive 2009/31/EC on the geological storage of carbon dioxide]; or
- ^{F12}(bb)
- (v) construction, civil engineering and building works and similar activities on or in the ground which comes into contact with groundwater; and
- (vi) discharges of small quantities of substances for scientific purposes for characterisation, protection or remediation of a body of water limited to the amount strictly necessary for the purposes concerned;
- provided such discharges do not compromise the achievement of the environmental objectives for that body of groundwater;
- (k) measures to eliminate pollution of surface waters by priority substances and to progressively reduce pollution by other substances which would otherwise prevent the achievement of the environmental objectives for bodies of surface water; and
- (l) measures required to—
- (i) prevent significant losses of pollutants from technical installations;
- (ii) prevent or reduce the impact of accidental pollution incidents, such as from floods.
- (3) The measures required by paragraph (2)(l) may include—
- (a) systems to detect or give warning of such events which may lead to accidental pollution; and
- (b) appropriate measures to reduce the risk to aquatic ecosystems from accidents which cannot reasonably be foreseen.
- (4) Where necessary, each programme of measures must include any other supplementary measures designed and implemented with the aim of achieving the environmental objectives set under regulation 12.

Textual Amendments

- F10** Reg. 20(2)(a) omitted (31.12.2020) by virtue of [The Water \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/112\)](#), regs. 1(1), **12(7)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in reg. 20(2)(j)(iv)(aa) substituted (31.12.2020) by [The Water \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/112\)](#), regs. 1(1), **12(7)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Reg. 20(2)(j)(iv)(bb) omitted (31.12.2020) by virtue of [The Water \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/112\)](#), regs. 1(1), **12(7)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Implementation of programme of measures

- 21.—**(1) The Department must ensure that the implementation of measures required in accordance with regulation 20 does not lead—
- (a) to increased pollution of marine waters;
- (b) to increased pollution of surface waters either directly or indirectly.
- (2) Paragraph (1) does not apply to the extent that compliance with it would result in increased pollution of the environment as a whole.

Action where environmental objectives unlikely to be achieved

22. Where monitoring or other data indicate that the environmental objectives set for a body of water are unlikely to be achieved, the Department must take steps to ensure that—

- (a) the causes of the possible failure are investigated;
- (b) any relevant permits and authorisations are examined and reviewed as appropriate;
- (c) the monitoring programmes under regulation 11 are reviewed and adjusted as appropriate; and
- (d) such additional measures as may be necessary to achieve those objectives (subject to the application of regulations 15 to 19) are included in the programme of measures applying to that body of water.

Recovery of costs for water service and provision of incentives for efficient water use

23.—(1) The Department and the Department for Infrastructure must, in accordance with Article 9 of the Directive, ensure—

- (a) that water pricing policies provide adequate incentives for users to use water resources efficiently; and
- (b) an adequate contribution of the different water uses, disaggregated into at least industry, households and agriculture, to the recovery of the costs of water services, based on the economic analysis required in accordance with regulation 7.

(2) In complying with paragraph (1), the Department and the Department for Infrastructure—

- (a) must take account of environmental and resource costs and the polluter pays principle;
- (b) may have regard to the social, environmental and economic effects of the cost recovery and the geographical and climatic conditions of the region or the regions affected.

(3) The Department must provide the Department for Infrastructure with any information relating to the environment which may reasonably be required to carry out its functions in accordance with this regulation.

(4) The Department for Infrastructure may, in accordance with established practices, disapply paragraph (1) in relation to a particular water-use activity, provided this does not otherwise compromise the purposes and achievement of the objectives of the Directive.

(5) The Department for Infrastructure must—

- (a) on a request being made by the Department, provide the Department with information on the steps it proposes to take in pursuance of its duties under paragraph (1); and
- (b) for the purposes of Article 9(4) of the Directive, inform the Department of any decision taken in accordance with that Article and provide the Department with a statement of the reasons for that decision.

(6) If the Department for Infrastructure decides in accordance with paragraph (4) not to fully apply the requirements of paragraph (1) in relation to a particular water use activity, the reasons for not doing so must be reported in the river basin management plan (or the next update of it).

PART 6

River Basin Management Plans

Application of this Part

24. This Part applies in relation to—

- (a) the most recent version of each river basin management plan prepared and updated in accordance with the 2003 Regulations; and
- (b) any subsequent version of such a plan updated in accordance with regulation 26.

River basin management plans: content

- 25.**—(1) A river basin management plan must—
- (a) relate to such period as the Department may determine, except in the case of a single plan for an international river basin district where it shall relate to such period as the Department may determine in consultation with the relevant competent authority in the Republic of Ireland;
 - (b) include the information specified in the relevant provisions of the Directive, the Groundwater Directive (as transposed by regulation 11 of the Groundwater Regulations (Northern Ireland) 2009 ^{M18}) and the EQS Directive (as transposed by regulations 22, 24 and 26 of the Water Framework Directive (Classification, Priority Substances and Shellfish Waters) Regulations (Northern Ireland) 2015 ^{M19}) specified in paragraphs (2) to (4);
 - (c) in relation to any shellfish water protected area, include the information required by paragraph (2)(d) in relation to protected areas.
- (2) The relevant provisions of the Directive are—
- (a) Article 9(2) and (4) (recovery of the costs of water services);
 - (b) Annex II, point 1.3(vi) (exclusion of elements from the assessment of ecological status);
 - (c) the following provisions of Annex V—
 - (i) points 1.3 and 1.3.4 (confidence and precision in monitoring surface water);
 - (ii) point 2.4.1 (confidence and precision in monitoring groundwater); and
 - (iii) points 2.4.5 and 2.5 (presentation of monitoring results for groundwater);
 - (d) Annex VII, Parts A and B (elements to be covered in river basin management plans).
- (3) The relevant provisions of the Groundwater Directive are—
- (a) Article 3(5) and (6) (the threshold values and revisions to them);
 - (b) Article 4(4) (summary of assessment of groundwater chemical status);
 - (c) Article 5(4) and (5) (trend assessment and starting points);
 - (d) Annex II Part C (how groundwater threshold values have been set);
 - (e) Annex III, point 5 (maps showing exceedances).
- (4) The relevant provisions of the EQS Directive are—
- (a) Article 3(5) (information about monitoring and analysis, including alternative matrices);
 - (b) Article 4(2) (information relating to mixing zones);
 - (c) Article 5(4) (updated inventories);
 - (d) Article 6(2) (transboundary pollution).

Marginal Citations

M18 S.R. 2009 No.254

M19 S.R. 2015 No.351

Review of river basin management plans

26.—(1) The Department must review and, where appropriate, update each river basin management plan in accordance with the time frame specified in Article 13(7) of the Directive.

(2) The Department must co-ordinate with the relevant competent authority in the Republic of Ireland for the purposes of reviewing and updating a single plan for an international river basin district.

(3) An updated river basin management plan must include the information specified in Part B of Annex VII to the Directive (additional information for inclusion in updated river basin management plans) in addition to the matters required to be included in accordance with regulation 25.

River basin management plans: public participation

27.—(1) The Department must, in respect of the production of an updated river basin management plan in accordance with regulation 26—

- (a) not less than three years before the relevant date, publish a statement of—
 - (i) the steps and consultation measures the Department is to take in connection with the preparation of the updated plan; and
 - (ii) the dates by which those steps and measures are to be taken;
- (b) not less than two years before the relevant date, publish a summary of the significant water management matters which the Department considers arise for consideration in relation to the river basin district or the part of each international river basin district falling within Northern Ireland; and
- (c) not less than one year before the relevant date, publish a draft of the updated plan.

(2) The Department must co-ordinate with the relevant competent authority in the Republic of Ireland with the aim of producing a draft of the updated plan for the whole of each international river basin district.

(3) Where it appears to the Department that a draft update of a single plan for an international river basin district cannot be produced, the Department must publish a draft updated plan for the part of the international river basin district falling within Northern Ireland.

(4) The Department must publish any matter required by paragraph (1) in such manner as the Department considers appropriate for the purpose of bringing that matter to the attention of persons likely to be affected by it and, in particular, must—

- (a) make copies of the statement, summary or draft updated plan accessible to the public free of charge through its website and its principal offices;
- (b) publish a notice—
 - (i) stating the fact of publication;
 - (ii) specifying the arrangements made for making copies of the statement, summary or draft updated plan available for public inspection; and
 - (iii) stating that any person may make representations to the Department in relation to the statement, summary or draft updated plan;
- (c) consult the persons referred to in paragraph (6);
- (d) take such steps as it considers appropriate to provide opportunities for the general public and the persons and bodies referred to in paragraph (6) to participate in discussion and the exchange of information or views in relation to the preparation of the draft updated plan; and

- (e) invite the public and the persons referred to in paragraph (6) to make representations in relation to the draft updated plan.
- (5) A notice required by paragraph 4(b) must be published—
- (a) in the Belfast Gazette; and
 - (b) at least once in each of two successive weeks in one or more newspapers circulating in the river basin district or the part of the international river basin district to which the plan relates.
- (6) The persons to be consulted are—
- (a) every water undertaker any part of whose area is within the river basin district or the part of the international river basin district falling within Northern Ireland;
 - (b) the Utility Regulator for Northern Ireland;
 - (c) the Council for Nature Conservation and the Countryside;
 - (d) each district council any part of whose area is within the river basin district or the part of an international river basin district falling within Northern Ireland;
 - (e) the harbour authority for each harbour in the river basin district or the part of an international river basin district falling within Northern Ireland;
 - (f) the Department for Infrastructure;
 - (g) where any part of the river basin district or the part of each international river basin district falling within Northern Ireland contains a shellfish water protected area, the Food Standards Agency in Northern Ireland;
 - (h) such persons as appear to the Department in relation to the river basin district and the part of each international river basin district falling within Northern Ireland—
 - (i) to be representative of the interests of those carrying on any business which relies upon the water environment;
 - (ii) to have an interest in the protection of the water environment; or
 - (iii) to have an interest in the promotion of flood management; and
 - (i) such other persons as the Department considers appropriate.
- (7) The Department must take into account any representations relating to the statement, summary or draft updated plan which are received by the Department within a period of six months beginning with the date of publication of the document or such longer period as the Department may allow.
- (8) In this regulation—
- (a) “harbour” and “harbour authority” have the meanings given by section 38 of the Harbours Act (Northern Ireland) 1970 ^{M20};
 - (b) “the relevant date”, means the date by which the Department is next required in accordance with regulation 28(4) to publish an updated plan

Marginal Citations

M20 1970 c.1 (N.I)

River basin management plans: publication

28.—(1) The Department must publish an updated river basin management plan for the river basin district and the part of each international river basin district falling within Northern Ireland (or, as the case may be, a single plan).

- (2) As soon as an updated river basin management plan is published, the Department must—
 - (a) take such steps as it considers appropriate for the purpose of bringing the updated plan to the attention of the general public and those persons likely to be interested in or affected by it and, in particular, must—
 - (i) make copies of the updated plan accessible to the public free of charge through its website and its principal offices; and
 - (ii) publish a notice specifying the arrangements made for making copies of the updated plan accessible to the public;
 - (b) publish a statement of the steps taken by the Department to comply with regulation 27(1) to (6), so far as they relate to the draft plan; and
 - (c) publish a summary of the representations referred to in regulations 27(7) and any changes made to the plan in light of those representations.
- (3) A notice required in accordance with paragraph (2)(a)(ii) must be published—
 - (a) in the Belfast Gazette; and
 - (b) at least once in each of two successive weeks in one or more newspapers circulating in the river basin district or the part of the international river basin district to which the plan relates.
- (4) The Department must publish any updated plan—
 - (a) by 22nd December 2021; and
 - (b) subsequently, by 22nd December of the sixth year following that date and of each sixth year following that.

Supplementary plans

29.—(1) The Department may publish supplementary plans for the purpose of supplementing the river basin management plan for a river basin district or part of each international river basin district falling within Northern Ireland.

- (2) A plan published in accordance with paragraph (1) may, for example, relate to—
 - (a) a particular description of body of water;
 - (b) a particular catchment or geographical area;
 - (c) a particular matter relating to, or aspect of, the water environment;
 - (d) a particular description of user of water resources.

(3) Where a plan prepared in accordance with paragraph (1) supplements a single plan for the whole of an international river basin district, the Department must consult the relevant competent authority in the Republic of Ireland and may, where appropriate, publish a single supplementary plan.

(4) The Department must, in preparing a supplementary plan, consult such persons referred to in regulation 27(6) and such other persons likely to be interested in or affected by that plan as it considers appropriate, and must take into account any views expressed by those consulted.

River basin management plans: duties on public bodies

30.—(1) The Department and each public body must, in exercising their functions so far as affecting the river basin district or the part of an international river basin district falling within Northern Ireland, have regard to—

- (a) the river basin management plan for that district; and
- (b) any supplementary plan published in accordance with regulation 29.

PART 7

General

Publication of information

- 31.**—(1) The Department must make accessible to the public at its principal offices—
- (a) the results of the analysis and review conducted in accordance with regulation 5 (characterisation of river basin district and international river basin districts);
 - (b) maps showing bodies of water identified in accordance with regulation 8 (bodies of water used for the abstraction of drinking water);
 - (c) the registers prepared in accordance with regulation 10 (register of protected areas);
 - (d) the results of the monitoring programmes established in accordance with regulation 11 (monitoring);
 - (e) the environmental objectives and programmes of measures established in accordance with regulation 12 (environmental objectives and programmes of measures); and
 - (f) any supplementary plan published in accordance with regulation 29 (supplementary plans).

(2) The Department must make accessible to the public through its website and at its principal offices the results of the analysis conducted in accordance with regulation 7 (economic analysis of water use in river basin district and international river basin districts).

- [^{F13}(3) The Department must—
- (a) produce an interim report describing progress in the implementation of each planned programme of measures;
 - (b) publish that report in such manner as the Department considers appropriate within three years after the publication of the most recent updated relevant river basin management plan under regulation 26.]

Textual Amendments

- F13** Reg. 31(3) substituted (31.12.2020) by [The Water \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/112\)](#), regs. 1(1), **12(8)**; 2020 c. 1, Sch. 5 para. 1(1)

Provision of information and assistance by public bodies

32. A public body must, on being requested to do so by the Department, provide the Department with such information in its possession or under its control and such assistance as the Department may reasonably seek in connection with the exercise by the Department of any of its functions in accordance with these Regulations.

Guidance to public bodies

33. The Department may give guidance to any public body on the implementation of the Directive, and the body to whom guidance is issued must have regard to it.

Revocations

- 34.** The 2003 Regulations are revoked.

35. The Surface Waters (Shellfish) (Classification) Regulations (Northern Ireland) 1997 are revoked^{M21}.

Marginal Citations

M21 S.R. 1997 No.489

36. The Surface Waters (Shellfish) (Classification) (Amendment) Regulations (Northern Ireland) 2009 are revoked^{M22}.

Marginal Citations

M22 S.R. 2009 No.61

Transitional provision

37.—(1) Anything done, whether or not subsequently revised, in accordance with the 2003 Regulations, and which has not been superseded at the time these Regulations come into operation, continues to have effect but is taken to have been done in accordance with these Regulations.

(2) Paragraph (1) applies to, but is not limited to, the following—

- (a) the analysis of river basin characteristics and review of impact of human activity required to be undertaken by 22nd December 2004 in accordance with regulation 5 of the 2003 Regulations;
- (b) the economic analysis required to be undertaken by 22nd December 2004 in accordance with regulation 6 of the 2003 Regulations;
- (c) the identification of drinking water protected areas in accordance with regulation 7 of the 2003 Regulations;
- (d) the establishment of a register of protected areas required by 22nd December 2004 in accordance with regulation 8 of the 2003 Regulations;
- (e) the establishment of operational monitoring programmes required by 22nd December 2006 in accordance with regulation 9 of the 2003 Regulations; and
- (f) the setting of environmental objectives for each body of water and the establishment of programmes of measures required by 22nd December 2009 in accordance with regulation 11 of the 2003 Regulations.

Consequential amendments

38. The consequential amendments in Schedule 4 have effect.

Changes to legislation: *There are currently no known outstanding effects for the The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017. (See end of Document for details)*

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 28th April 2017.

L.S.

Dave Foster
A senior officer of the
Department of Agriculture, Environment and
Rural Affairs

Changes to legislation:

There are currently no known outstanding effects for the The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017.