

## [<sup>F1</sup>SCHEDULE 5

Regulation 2(5)

### Modification of Directives

#### Textual Amendments

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

## PART 1

### Modifications of the Directive

1. A reference to the Directive, or to any provision of it, is to be read in accordance with this Part.
2. When interpreting the Directive for the purposes of these Regulations—
  - (a) a reference to one or more member States in a provision imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the Department which, immediately before exit day, was responsible for the United Kingdom's compliance with that obligation or was able to exercise that discretion, so far as relating to Northern Ireland;
  - (b) a reference to Article 13 of the Directive is to be read as if it were a reference to Article 13 except in so far as it gives rise to any obligation under Article 15 of that Directive;
  - (c) any reference to “Community legislation” (other than a reference to existing Community legislation) is to be read as if it were a reference to retained EU law;
  - (d) any reference to “existing Community legislation” or “existing legislation” is to be read as if it were a reference to Community legislation which was in force prior to 23rd October 2000;
  - (e) the Directive is to be read as if the following modifications were made to it.
3. Article 2(24) is to be read as if, for the words from “in Annex IX” to the end, there were substituted “ by the table of priority substances, and under relevant retained EU law which sets environmental quality standards ”.
4. Article 3 is to be read as if—
  - (a) in paragraph 3—
    - (i) “the territory of more than one Member State” were a reference to “Northern Ireland and the Republic of Ireland”;
    - (ii) the second sentence was omitted;
    - (iii) for “Each” substitute “ A ”;
  - (b) in paragraph 4—
    - (i) “the Member States concerned” were a reference to “Northern Ireland and the Republic of Ireland”;
    - (ii) the third sentence was omitted;
  - (c) omit paragraphs 5,8 and 9.
5. Article 4 is to be read as if—
  - (a) in paragraph 1—

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- (i) in point (a)(iv), for “Article 16(1) and (8)” there were substituted “ the EQS Directive ”;
    - (ii) in point b (iii), for “paragraphs 2, 4 and 5 of Article 17” there were substituted “ the Groundwater Directive ”;
  - (b) in paragraph 8, the reference to “other Community environmental legislation” were a reference to retained EU law relating to the environment.
6. Article 7(2) is to be read as if—
- (a) for “at Community level under Article 16” there were substituted “ by retained EU law transposing the EQS Directive ”;
  - (b) for “Directive [80/778/EEC](#) as amended by Directive [98/83/EC](#)” there were substituted “ retained EU law transposing Directive [98/83/EC](#) ”.
7. Article 10 were omitted.
8. Article 11(3) is to be read as if—
- (a) in subparagraph (a), for the words from “required to implement” to the end, substitute “ under retained EU law for the protection of water ”;
  - (b) in subparagraph (j), in the fourth indent, for the words from “Directive” to the end there were substituted “ 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 ”;
  - (c) in subparagraph (k)—
    - (i) the words “in accordance with action taken pursuant to Article 16,” were omitted;
    - (ii) for “agreed pursuant to Article 16” there were substituted “ in Annex 10 ”.
9. Article 12 were omitted.
10. In Article 13—
- (a) paragraph 2 is to be read as if for “the Community” and “their territory” there were substituted “ Northern Ireland ”;
  - (b) paragraph 3 is to be read as if for “the Community” and “the territory of the Member State concerned” there were substituted “ Northern Ireland ”.
11. Article 15 is to be read as if—
- (a) paragraphs 1 and 2 were omitted;
  - (b) in paragraph 3, for “submit” there were substituted “ produce ”.
12. Article 24 were omitted.
13. Annex 1 were omitted.
14. Annex 2 is to be read as if—
- (a) in section 1.1, paragraph (vi) were omitted;
  - (b) in section 1.4—
    - (i) in the second paragraph—
      - (aa) after “gathered under” there were inserted “ the retained EU law which implemented ”;
      - (bb) in subparagraph (ii), the reference to Articles 9 and 15 of Directive [96/61/EC](#) were a reference to Articles 5(3), 14 and 24 of Directive [2010/75/EC](#) of the European Parliament and of the Council on industrial emissions;
    - (ii) in the third paragraph—

- (aa) after “gathered under” there were inserted “ the retained EU law which implemented ”;
  - (bb) in subparagraph (iii) the reference to Directive 98/8/EC were a reference to Regulation (EC) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products;
  - (c) in section 2.3, the reference to “two or more Member States” were a reference to “Northern Ireland and the Republic of Ireland”.
- 15. Annex 4 is to be read as if—
  - (a) in paragraph (1)—
    - (i) in subparagraph (iii), for “Directive 76/160/EEC” there were substituted “ retained EU law transposing Directive 2006/7/EC ”;
    - (ii) in subparagraph (iv), after “under” (in both places it occurs) there were inserted “ retained EU law transposing ”;
    - (iii) in subparagraph (v), for “Directive 79/409/EEC” there were substituted “ retained EU law transposing Directive 2009/147/EC ”;
  - (b) in paragraph (2), the words “Community, national or local” were omitted.
- 16. Annex 5 is to be read as if—
  - (a) references in tables 1.2.1 to 1.2.5 to Directive 91/414/EC, in each place they occur, were references to Regulation (EC) 1107/2009 concerning the placing of plant protection products on the market;
  - (b) references in tables 1.2.1 to 1.2.5 to Directive 98/8/EC, in each place they occur, were references to Regulation (EC) 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products;
  - (c) in section 1.3.1, in the unnumbered paragraph headed “Selection of monitoring points”, the fourth indent (referring to “the Information Exchange Decision 77/795/EEC”) were omitted;
  - (d) in section 1.3.5, the reference to “the Drinking Water Directive” were a reference to retained EU law which transposed Directive 98/83/EC on the quality of water intended for human consumption;
  - (e) in section 1.4.1—
    - (i) in point (iii), for the words from “shall be established” to the end there were substituted “ is as set out in Commission Decision 2018/229 establishing, pursuant to Directive 2000/60/EC of the Parliament and of the Council, the values of the Member State monitoring system classifications as a result of the intercalibration exercise. ”;
    - (ii) points (iv) to (ix) were omitted;
  - (f) in section 1.4.3, for the words “Annex IX, Article 16 and under other relevant Community legislation” there were substituted “ Annex 1 to the Directive and under other relevant retained EU law ”;
  - (g) in the table in section 2.3.2, in the column for “good status”, for “other relevant Community legislation in accordance with Article 17” there were substituted “ Directive 2006/118/EEC of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration as last amended by Commission Directive 2014/80/EU ”;
  - (h) in section 2.4.5, the words “Without prejudice to the Directives concerned” were omitted.

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17. Annex 6 is to be read as if Part A were omitted.
18. Annex 7 is to be read as if, in Part A—
  - (a) in point 7.1, for “implement Community legislation” there were substituted “ under retained EU law ”;
  - (b) point 10 were omitted.

## PART 2

### Modifications of the Groundwater Directive

1. A reference to the Groundwater Directive, or to any provision of it, is to be read in accordance with this Part.
2. When interpreting the Groundwater Directive for the purposes of these Regulations—
  - (a) a reference to one or more member States in a provision imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the Department;
  - (b) any reference to “Community legislation” is to be read as if it were a reference to retained EU law;
  - (c) the Groundwater Directive is to be read as if the following modifications were made to it.
3. Article 3 is to be read as if—
  - (a) in paragraph 3, the references to “two or more Member States” and “Member States concerned” are to be read as a reference to “Northern Ireland and the Republic of Ireland”;
  - (b) paragraph 4 were omitted;
  - (c) in paragraph 5, for “submitted” there were substituted “ produced ”.
4. Article 5 is to be read as if, in each of paragraphs 4 and 5 for “submitted” there were substituted “ produced ”.
5. Article 6(4) is to be read as if the words after “paragraph 3” were omitted.
6. Article 12 were omitted.
7. Annex 1 is to be read as if—
  - (a) in paragraph 1 the words “and established in accordance with Article 17 of that Directive” were omitted;
  - (b) in footnote 1 to the table in point 1, for “Article 2 of Directive [91/414/EEC](#) and Article 2 of Directive [98/8/EC](#)” there were substituted “ Article 2 of Regulation [\(EC\) No 1107/2009](#) of the European Parliament and of the Council concerning the placing of plant protection products on the market and Article 3 of Regulation [\(EC\) No 528/2012](#) of the European Parliament and of the Council concerning the making available on the market and use of biocidal products ”;
  - (c) in point 2, for “Directive [91/414/EEC](#) or Directive [98/8/EC](#)” there were substituted “ Regulation [\(EC\) No 1107/2009](#) of the European Parliament and of the Council concerning the placing of plant protection products on the market or Regulation [\(EC\) No 528/2012](#) of the European Parliament and of the Council concerning the making available on the market and use of biocidal products ”.
8. Annex 2 is to be read as if, in Part C—
  - (a) for “submitted” there were substituted “ produced ”;

- (b) in point (c)(iii), for “at national, Union or” there were substituted “ in retained EU law or other applicable legislation, or at ”.

## **PART 3**

### Modifications of the EQS Directive

1. A reference to the EQS Directive, or to any provision of it, is to be read in accordance with this Part.
2. When interpreting the EQS Directive for the purpose of these Regulations—
  - (a) a reference to one or more member States in a provision imposing an obligation or conferring a discretion on a member State or member States is to be read as a reference to the Department;
  - (b) the EQS Directive is to be read as if the following modifications were made to it.
3. Article 3 is to be read as if—
  - (a) a reference to a provision of 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 quality were modified in accordance with paragraph 2(a);
  - (b) paragraph 5a were omitted.
4. Article 4 is to be read as if—
  - (a) in paragraph (2)(b), for “referred to in Directive [2008/1/EC](#)” there were substituted “ under the Pollution, Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 ”;
  - (b) in paragraph (3), the reference to “Community law” were a reference to retained EU law.
5. Article 5 is to be read as if—
  - (a) references to Directive [91/414/EEC](#) were read as references to Regulation [\(EC\) 1107/2009](#);
  - (b) paragraph 3 were omitted.
6. The following Articles were omitted—
  - (a) Article 6(1)(c) and (2);
  - (b) Article 7a;
  - (c) in Article 8a(1), the final sentence of the second subparagraph;
  - (d) Article 8b(4);
  - (e) Article 8c;
  - (f) Article 13.]

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