



Environment Act 2021

2021 CHAPTER 30

PART 5

WATER

Water quality

89 Water quality: powers of Secretary of State

- (1) The Secretary of State may by regulations amend or modify any legislation to which this section applies for the purpose of—
 - (a) making provision about the substances to be taken into account in assessing the chemical status of surface water or groundwater;
 - (b) specifying standards in relation to those substances or in relation to the chemical status of surface water or groundwater.
- (2) This section applies to —
 - (a) the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 ([S.I. 2017/407](#));
 - (b) the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003 ([S.I. 2003/3245](#));
 - (c) the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 ([S.I. 2004/99](#));
 - (d) the Groundwater Regulations (Northern Ireland) 2009 ([S.R. \(N.I.\) 2009 No. 254](#));
 - (e) the Water Framework Directive (Classification, Priority Substances and Shellfish Waters) Regulations (Northern Ireland) 2015 ([S.R. \(N.I.\) 2015 No. 351](#));
 - (f) the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017 ([S.R. \(N.I.\) 2017 No. 81](#));
 - (g) any regulations modifying that legislation made under or by virtue of the European Union (Withdrawal) Act 2018.

Status: This is the original version (as it was originally enacted).

- (3) Regulations under subsection (1) may also, in connection with provision made under subsection (1)(a) or (b), amend or modify legislation to which this section applies so as to make provision—
- (a) setting objectives in relation to the substances about which the provision is made, or in relation to the chemical status of surface water or groundwater (including objectives to maintain specified standards or to achieve specified standards by specified dates);
 - (b) about how objectives set by the regulations are to be met, including provision requiring, or otherwise relating to, measures to be taken to achieve those objectives;
 - (c) requiring, or otherwise relating to, the monitoring or assessment of any matter relating to the chemical status of surface water or the chemical status of groundwater;
 - (d) about the classification of bodies of water according to their chemical status or any matter relating to their chemical status.
- (4) Regulations under this section may not contain provision that could be contained in—
- (a) regulations made by the Welsh Ministers under section 90, or
 - (b) regulations made by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland under section 91,
- unless those Ministers or that Department consents.
- (5) Regulations under this section may not contain provision applying to that part of a Scottish cross-border river basin district which is in Scotland, unless the Scottish Ministers consent.
- (6) Before making regulations under this section the Secretary of State must consult—
- (a) if the regulations apply to England (or part of England), the Environment Agency;
 - (b) if the regulations do not require the consent of the Welsh Ministers but apply to any part of a Welsh cross-border river basin district, the Welsh Ministers;
 - (c) if the regulations do not require the consent of the Scottish Ministers but apply to any part of a Scottish cross-border river basin district, the Scottish Ministers;
 - (d) any persons or bodies appearing to the Secretary of State to represent the interests of those likely to be affected by the regulations.
- (7) A “Scottish cross-border river basin district” is a river basin district which is partly in England and partly in Scotland.
- (8) A “Welsh cross-border river basin district” is a river basin district which is partly in England and partly in Wales.
- (9) Regulations under this section are subject to the negative procedure.

90 Water quality: powers of Welsh Ministers

- (1) The Welsh Ministers may by regulations amend or modify any legislation to which this section applies for the purpose of—
- (a) making provision about the substances to be taken into account in assessing the chemical status of surface water or groundwater;

- (b) specifying standards in relation to those substances or in relation to the chemical status of surface water or groundwater.
- (2) This section applies to —
- (a) the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 ([S.I. 2017/407](#));
 - (b) any regulations modifying that legislation made under or by virtue of the European Union (Withdrawal) Act 2018.
- (3) Regulations under subsection (1) may also, in connection with provision made under subsection (1)(a) or (b), amend or modify legislation to which this section applies so as to make provision—
- (a) setting objectives in relation to the substances about which the provision is made, or in relation to the chemical status of surface water or groundwater (including objectives to maintain specified standards or to achieve specified standards by specified dates);
 - (b) about how objectives set by the regulations are to be met, including provision requiring, or otherwise relating to, measures to be taken to achieve those objectives;
 - (c) requiring, or otherwise relating to, the monitoring or assessment of any matter relating to the chemical status of surface water or the chemical status of groundwater;
 - (d) about the classification of bodies of water according to their chemical status or any matter relating to their chemical status.
- (4) Before making regulations under this section the Welsh Ministers must consult—
- (a) the Natural Resources Body for Wales;
 - (b) if the regulations apply to any part of a river basin district which is partly in Wales and partly in England, the Secretary of State;
 - (c) any persons or bodies appearing to the Welsh Ministers to represent the interests of those likely to be affected by the regulations.
- (5) Regulations under this section may contain only provision which, if contained in an Act of Senedd Cymru, would (disregarding paragraphs 8(1)(c) and 11(1)(a) and (c) of Schedule 7B to the Government of Wales Act 2006) be within the legislative competence of the Senedd.
- (6) Regulations under this section are subject to the negative procedure.

91 Water quality: powers of Northern Ireland department

- (1) The Department of Agriculture, Environment and Rural Affairs in Northern Ireland may by regulations amend or modify any legislation to which this section applies for the purpose of—
- (a) making provision about the substances to be taken into account in assessing the chemical status of surface water or groundwater;
 - (b) specifying standards in relation to those substances or in relation to the chemical status of surface water or groundwater.
- (2) This section applies to—
- (a) the Groundwater Regulations (Northern Ireland) 2009 ([S.R. \(N.I.\) 2009 No. 254](#));

Status: This is the original version (as it was originally enacted).

- (b) the Water Framework Directive (Classification, Priority Substances and Shellfish Waters) Regulations (Northern Ireland) 2015 ([S.R. \(N.I.\) 2015 No. 351](#));
 - (c) the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017 ([S.R. \(N.I.\) 2017 No. 81](#));
 - (d) any regulations modifying that legislation made under or by virtue of the European Union (Withdrawal) Act 2018.
- (3) Regulations under subsection (1) may also, in connection with provision made under subsection (1)(a) or (b), amend or modify legislation to which this section applies so as to make provision—
- (a) setting objectives in relation to the substances about which the provision is made, or in relation to the chemical status of surface water or groundwater (including objectives to maintain specified standards or to achieve specified standards by specified dates);
 - (b) about how objectives set by the regulations are to be met, including provision requiring, or otherwise relating to, measures to be taken to achieve those objectives;
 - (c) requiring, or otherwise relating to, the monitoring or assessment of any matter relating to the chemical status of surface water or the chemical status of groundwater;
 - (d) about the classification of bodies of water according to their chemical status or any matter relating to their chemical status.
- (4) Before making regulations under this section the Department must consult any persons or bodies appearing to the Department to represent the interests of those likely to be affected by the regulations.
- (5) Regulations under this section may contain only provision which, if contained in an Act of the Northern Ireland Assembly, would be within the legislative competence of the Assembly and would not require the Secretary of State’s consent.
- (6) Regulations under this section are subject to the negative procedure.

92 Solway Tweed river basin district: power to transfer functions

- (1) The Secretary of State may by regulations amend or modify the Solway Tweed Regulations in accordance with this section.
- (2) The “Solway Tweed Regulations” means the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 ([S.I. 2004/99](#)).
- (3) The regulations may provide for a function under the Solway Tweed Regulations which is exercisable (to any extent)—
- (a) by the Secretary of State and the Scottish Ministers jointly,
 - (b) by the Secretary of State and the Scottish Ministers concurrently, or
 - (c) only by the Secretary of State or the Scottish Ministers,
- to be exercised (to any extent) in another of those ways.
- (4) The regulations may provide for a function under the Solway Tweed Regulations which is exercisable (to any extent)—
- (a) by the Environment Agency and SEPA jointly,
 - (b) by the Environment Agency and SEPA concurrently, or

- (c) only by the Environment Agency or SEPA,
to be exercised (to any extent) in another of those ways.
- (5) The regulations may make provision changing the geographical area in relation to which a function under the Solway Tweed Regulations is exercisable (or is exercisable by a specified person).
- (6) The regulations may also provide—
 - (a) for a function within subsection (3) to be exercisable only with the consent of, or after consultation with, the Secretary of State or the Scottish Ministers;
 - (b) for a function within subsection (4) to be exercisable only with the consent of, or after consultation with, the Environment Agency, SEPA, the Secretary of State or the Scottish Ministers.
- (7) The Secretary of State may make regulations under this section only with the consent of the Scottish Ministers.
- (8) Regulations under this section are subject to the negative procedure.
- (9) In this section “SEPA” means the Scottish Environment Protection Agency.

93 Water quality: interpretation

In sections 89 to 92—

- “groundwater” has the same meaning as in the Water Framework Directive;
- “river basin district” means an area identified as such by or under any legislation to which the section in question applies;
- “surface water” has the same meaning as in the Water Framework Directive;
- “Water Framework Directive” means [Directive 2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy.