

Groundwater (Water Framework Directive) (England) Direction 2014

The Secretary of State, in exercise of the powers conferred by section 40(2) of the Environment Act 1995, gives the following Direction to the Environment Agency for the implementation of Article 17(4) of Directive 2000/60/EC.

The Secretary of State has consulted the Welsh Ministers, to the extent that there is any effect in those parts of Wales that are within the catchment areas of the rivers Dee, Wye and Severn, and the Environment Agency.

Citation and commencement

1. This Direction may be cited as the Groundwater (Water Framework Directive) (England) Direction 2014 and comes into force on 16 September 2014.

Interpretation

2.—(1) In this Direction—

“the 2006 Direction” means the Groundwater (Water Framework Directive) Direction 2006 as in force immediately before this Direction comes into force;

“the Groundwater Directive” means Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration;

“the Water Framework Directive” means Directive 2000/60/EC of the European Parliament and of the Council of 23rd October 2000 establishing a framework for Community action in the field of water policy;

“the Agency” means the Environment Agency;

“background level” means the concentration of a substance or the value of an indicator in a body of groundwater corresponding to no, or only very minor, anthropogenic alterations to undisturbed conditions;

“baseline levels” means the average value measured at least during the reference years 2007 and 2008 on the basis of monitoring programmes implemented under Article 8 of the Water Framework Directive or, in the case of substances identified after these reference years, during the first period for which a representative period of monitoring data is available;

“the Dee and Severn River Basin Districts” means those areas identified as such for the purposes of regulation 4(1) of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003;

“groundwater quality standard” means an environmental quality standard expressed as the concentration of a particular pollutant, group of pollutants or indicator of pollution in groundwater, which should not be exceeded in order to protect human health and the environment;

“the Northumbria River Basin District” means the area identified by regulation 3(1) of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003;

“NRW” means the Natural Resources Body for Wales;

“river basin district” means—

- (a) an area identified by regulation 4(1) of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003, being the main unit for the management of river basins for the purposes of the Water Framework Directive and being made up of a river basin or neighbouring river basins, together with associated groundwater, transitional waters and coastal waters;
- (b) the Northumbria River Basin District;
- (c) the Solway Tweed River Basin District;

“SEPA” means the Scottish Environment Protection Agency;

“the Solway Tweed River Basin District” means the area identified by regulation 3(1) of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004; and

“starting point” in relation to trend reversal means the point at which measures must be implemented to reverse a significant and sustained upward trend in pollutant concentrations or indicators of pollution identified in paragraph 6(1)(a) of the 2006 Direction.

(2) Any expression used in this Direction which is also used in the Water Framework Directive or the Groundwater Directive and which is not otherwise defined in this Direction has the same meaning for the purposes of this Direction as it has for the purposes of those Directives.

(3) References in the Groundwater Directive to “threshold values”, “threshold values established in accordance with Article 3 and Annex II” and “threshold values established pursuant to Article 3” shall be taken to be references to threshold values approved by—

- (a) the Secretary of State; or
- (b) the relevant authority in accordance with the 2006 Direction.

General duty in the Solway Tweed River Basin District

3. In discharging its functions in compliance with this Direction in relation to the Solway Tweed River Basin District, the Agency shall co-operate with SEPA, in relation to the exercise by SEPA of corresponding functions, so as to secure that the assessment of groundwater chemical status, identification of significant and sustained upward trends in pollution concentrations and determination of the starting point for trend reversal is co-ordinated for the whole of that river basin district.

General duty in the Dee and Severn River Basin Districts

4. In discharging its functions in compliance with this Direction in relation to the Dee and Severn River Basin Districts the Agency shall co-operate with NRW, in relation to the exercise by NRW of corresponding functions, so as to secure that the assessment of groundwater chemical status, identification of significant and sustained upward trends in pollution concentrations and determination of the starting point for trend reversal is co-ordinated for the whole of those river basin districts.

Threshold values

5.—(1) Where new information indicates that in order to protect human health and the environment, a threshold value should be set for a substance or an approved threshold value should be changed, the Agency must prepare proposals for new or revised threshold values and submit those proposals to the Secretary of State.

(2) Threshold values must be determined in accordance with Parts A and B of Annex II to the Groundwater Directive on the basis of methodologies approved by the Secretary of State.

(3) When determining threshold values the Agency must consider the following guidelines—

- (a) the determination of threshold values should be based on—

- (i) the extent of interactions between groundwater and associated aquatic and dependent terrestrial ecosystems;
 - (ii) the interference with actual or potential legitimate uses or functions of groundwater;
 - (iii) all pollutants which characterise bodies of groundwater as being at risk, taking into account the minimum list set out in Part B of Annex II to the Groundwater Directive; and
 - (iv) hydro-geological characteristics including information on background levels and water balance;
- (b) the determination of threshold values may take account of the origins of the pollutants, their possible natural occurrence, their toxicology and dispersion tendency, their persistence and their bioaccumulation potential;
 - (c) wherever elevated background levels of substances or ions or their indicators occur due to natural hydro-geological reasons, these background levels in the relevant body of groundwater must be taken into account when establishing threshold values; and
 - (d) the determination of threshold values should be supported by a control mechanism for the data collected, based on an evaluation of data quality, analytical considerations, and background levels for substances which may occur both naturally and as a result of human activities.

(4) Where in the opinion of the Agency a body of groundwater is no longer at risk from a pollutant, group of pollutants or an indicator of pollution, the Agency may prepare and submit to the Secretary of State for his approval proposals for the revocation of the approved threshold value for that pollutant, group of pollutants or indicator of pollution.

(5) The Agency must supply to the Scottish Ministers copies of proposals submitted to the Secretary of State under this paragraph relating to threshold values for bodies of groundwater associated with the Solway Tweed River Basin District.

(6) The Agency must supply to the Welsh Ministers copies of proposals submitted to the Secretary of State under this paragraph relating to threshold values for bodies of groundwater associated with the Dee and Severn River Basin Districts.

(7) The Agency must maintain and keep up to date the list of approved threshold values.

(8) The Agency must apply the approved threshold values for the purposes of assessing groundwater chemical status and determining the starting point for trend reversal.

(9) In this paragraph an “approved threshold value” includes a threshold value approved, and not revoked, under paragraph 4 of the 2006 Direction.

Criteria for assessing groundwater chemical status

6.—(1) The Agency must apply the approach in the relevant provisions of the Groundwater Directive when assessing groundwater chemical status.

(2) The relevant provisions of the Groundwater Directive for the purposes of sub-paragraph (1) are—

- (a) Article 3(1)(a) and (b);
- (b) Article 3(6);
- (c) Article 4(1), 4(2) and 4(3);
- (d) Annex I;
- (e) Annex II, and
- (f) Paragraphs 1 to 4 of Annex III.

(3) Whenever technically possible the Agency must take into account inputs of pollutants from diffuse sources of pollution having an impact on groundwater chemical status.

Significant and sustained upward trends in pollution concentrations and the starting point for trend reversal

- 7.—(1) This paragraph applies where the Agency has—
- (a) characterised a body or group of bodies of groundwater as being at risk of failing to meet the objectives under Article 4 of the Water Framework Directive for the purposes of giving effect to paragraphs 2.4.4 and 2.4.5 of Annex V to that Directive;
 - (b) identified any significant and sustained upward trend in pollutant concentrations or indicator of pollution (whether under the 2006 Directive or this Directive); and
 - (c) determined the starting point for reversal of each trend so identified (whether the determination was made under the 2006 Directive or this Directive).
- (2) By 22nd December 2014, and subsequently by each sixth anniversary of that date, the Agency must review and where necessary revise—
- (a) its identification of any significant and sustained upward trend in pollutant concentrations or indicators of pollution; and
 - (b) its determination of the starting point for reversal of each trend so identified.
- (3) A body of groundwater must be treated as being subject to a significant and sustained upward trend in pollution concentrations where it is subject to a statistically significant increase of concentrations of a pollutant, group of pollutants or indicator of pollution, which presents a significant environmental risk.
- (4) The Agency must base the assessment of whether a body of groundwater is subject to a significant and sustained upward trend in pollution concentrations on information from the sources specified in sub-paragraph (5), assessed in accordance with paragraph 2(c) and (d) of Part of Annex IV to the Groundwater Directive.
- (5) The sources mentioned in sub-paragraph (4) are—
- (a) monitoring programmes for groundwater—
 - (i) established under the provisions specified in sub-paragraph (10); and
 - (ii) designed in accordance with the requirements of those provisions and paragraphs 1 and 2(a) and (b) of Part A of Annex IV to the Groundwater Directive;
 - (b) relevant data gathered before the start of the monitoring programmes for the purposes of identifying trends for the first river basin management plans; and
 - (c) baseline levels.
- (6) The Agency must carry out an additional trend assessment in the circumstances described in Article 5(5) of the Groundwater Directive in order to verify that a plume of pollution from a contaminated site does not—
- (a) expand;
 - (b) cause a deterioration in the chemical status of a body or group of bodies of groundwater; or
 - (c) present a risk to human health or the environment.
- (7) The starting point for trend reversal must be determined in accordance with Article 5(3) and paragraph 1 of Part B of Annex IV to the Groundwater Directive.
- (8) Trend reversals must be demonstrated taking into account the relevant monitoring provisions in paragraph 2 of Part A of Annex IV to the Groundwater Directive.
- (9) The identification of significant and sustained upward trends in pollution concentrations in relation to substances which occur both naturally and as a result of human activities must take account of the baseline levels.
- (10) The provisions specified in this sub-paragraph are—
- (a) in relation to the Solway Tweed River Basin District, regulation 2(1) and paragraph 5 of Schedule 1 to the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004;

- (b) in relation to any other river basin district, regulation 9 of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003.

Information to be included in the river basin management plan

8.—(1) The Agency must ensure each river basin management plan which is updated under the provisions specified in sub-paragraph (2) includes, in relation to the river basin district—

- (a) details of approved threshold values together with the information specified in Part C of Annex II to the Groundwater Directive;
 - (b) details of any applicable changes to the list of approved threshold values since the date of publication of the previous version of the plan;
 - (c) a summary of the assessment undertaken for the purposes of determining groundwater chemical status, including an explanation as to the manner in which exceedances of groundwater quality standards or approved threshold values at individual monitoring points have been taken into account;
 - (d) a summary of the information specified in Article 5(4)(a) of the Groundwater Directive;
 - (e) details of the starting point for trend reversal determined under paragraph 7(7), together with a summary of the reasons for each determination; and
 - (f) a summary of the results of any additional trend assessments carried out under paragraph 7(6).
- (2) The provisions specified in this sub-paragraph are—
- (a) in relation to the Solway Tweed River Basin District, regulation 2(1) and paragraph 5 of Schedule 1 to the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004;
 - (b) in relation to any other river basin district, regulation 11(4) of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003.

Revocation

9.The Groundwater (Water Framework Directive) Direction 2006 is revoked.

Signed by authority of the Secretary of State

Date 16 September 2014

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