

2018 No. 000

**EXITING THE EUROPEAN UNION, NORTHERN
IRELAND**

ENVIRONMENTAL PROTECTION, NORTHERN IRELAND

WATER AND SEWERAGE, NORTHERN IRELAND

**The Water (Amendment) (Northern Ireland) (EU Exit)
Regulations 2018**

<i>Sift requirements satisfied</i>	***
<i>Made</i> - - - -	***
<i>Laid before Parliament</i>	***
<i>Coming into force in accordance with regulation 1</i>	

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of, and paragraph 21(b) of Schedule 7, to the European Union (Withdrawal) Act 2018(a).

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Water (Amendment) (Northern Ireland) (EU Exit) Regulations 2018 and come into force on exit day.

(2) These Regulations extend to Northern Ireland only.

PART 2

Amendment of primary legislation

The Marine Act (Northern Ireland) 2013

- 2.**—(1) The Marine Act (Northern Ireland) 2013(a) is amended as follows.
- (2) In section 20—
- (a) in subsection (5), for “obligations under EU or international law” substitute “retained EU obligations or obligations under international law”;
 - (b) at the end insert—

“(11) For the purposes of this section, the Wild Birds Directive is to be read with the following modifications—

 - (a) references to “the European territory of the Member States to which the Treaty applies” include the United Kingdom;
 - (b) references to a Member State (or Member States) include the United Kingdom.”.
- (3) In section 38(7), in the definition of “third country vessel”—
- (a) in paragraph (a), for “(other than Gibraltar) which is not a member State” substitute “other than the United Kingdom”;
 - (b) in paragraph (b), for “a member State” substitute “the United Kingdom”.

PART 3

Amendment of subordinate legislation

The Control of Asbestos in Water Regulations (Northern Ireland) 1995

- 3.**—(1) The Control of Asbestos in Water Regulations (Northern Ireland) 1995(b) are amended as follows.
- (2) After regulation 2(2), insert—
- “(3) For the purposes of these Regulations, a reference to a Directive is to be read as if any reference in that Directive to one or more member States or the competent authorities of member States in a provision imposing an obligation or conferring a discretion on, a member State, member States or the competent authorities of member States is to be read as a reference to the Department.”.
- (3) For regulation 3, substitute—
- “**3.**—(1) The Department shall, in accordance with the Directive, take the necessary measures to ensure that asbestos discharges into the aquatic environment are, as far as reasonably practicable, reduced at source and prevented.
- (2) For the purposes of this regulation, the Directive is to be read as if—
- (a) the following provisions were omitted—
 - (i) Article 6, paragraph 3;
 - (ii) Articles 10 to 14;
 - (b) in Article 3, paragraph 2, the words from “taking into account” to the end were omitted;

(a) 2013 c.10 (N.I.)

(b) S.R. 1995 No.93 as amended by S.R. 1996 No.602

- (c) in Article 7, for “Article 12 of Directive 83/477/EEC” there were substituted “Article 13 of Directive 2009/148/EC(a)”;
- (d) in Article 8, omit “Without prejudice to Directive 78/319/EEC, as last amended by the 1985 Act of Accession.”;
- (e) in the Annex, in Part B, Chapter 2—
 - (i) in the second paragraph, for “European reference method defined in Annex 1 of Directive 83/477/EEC” there were substituted “method recommended in 1997 by the World Health Organization (WHO)(b) or any other method giving equivalent results”;
 - (ii) in the third paragraph, point (8), for “European” to “Directive 83/477/EEC” there were substituted “method recommended in 1997 by the World Health Organization (WHO) or any other method giving equivalent results”. ”.

(4) In regulation 4A, after paragraph (2), insert—

“(3) For the purposes of paragraph (2), the reference to the Annex were to the Annex read in accordance with regulation 3(2)(e).”.

The Protection of Water Against Agricultural Nitrate Pollution Regulations (Northern Ireland) 2004

4. In regulation 2(1) of the Protection of Water Against Agricultural Nitrate Pollution Regulations (Northern Ireland) 2004(c), for the definition of “Action Programme” substitute—

““Action Programme” means measures regarding the protection of water against pollution caused by nutrients from agricultural sources as set out in the Nitrates Action Programme Regulations (Northern Ireland) 2014(d);”.

The Urban Waste Water Treatment Regulations (Northern Ireland) 2007

5.—(1) The Urban Waste Water Treatment Regulations (Northern Ireland) 2007(e) are amended as follows.

(2) In regulation 7—

- (a) in paragraph (5), omit “and with the agreement of the Commission pursuant to Article 8(5) of the Directive”;
- (b) in paragraph (7)(a), for “the Directive and other Community Directives” substitute “these Regulations and retained EU law”.

(3) For regulation 15, substitute—

“**15.**—(1) The Department and the Department for Infrastructure must, acting jointly, publish a situation report on the disposal of urban waste water and sludge.

(2) The Department and the Department for Infrastructure must review and assess compliance of agglomerations with these Regulations and publish a report on—

- (a) the level of that compliance;
- (b) identified reasons for non-compliance where applicable;
- (c) proposed measures to achieve compliance with these Regulations.

(3) A report under paragraphs (1) and (2) must be published in such manner as the Department and the Department for Infrastructure consider appropriate.

(a) OJ No L 330, 16.12.2009, p 28-36

(b) Determination of airborne fibre concentrations. A recommended method, by phase-contrast optical microscopy (membrane filter method), WHO, Geneva 1997 (ISBN 92 4 154496 1)

(c) S.R. 2004 No.419

(d) S.R. 2014 No.307 as amended by S.R. 2015 No.369

(e) S.R. 2007 No.187

(4) The first reports under paragraphs (1) and (2) must be published by 31st December 2020.

(5) Subsequent reports must be published at intervals not exceeding two years.”.

(4) In Part 1 of Schedule 1, in paragraph (c), for “Council Directives” substitute “retained EU law”.

(5) In Part 1 of Schedule 3, in paragraph 4, for “any other relevant Community Directives” substitute “retained EU law”.

(6) In Schedule 4, for “other Community Directives” substitute “retained EU law”.

The Quality of Bathing Water Regulations (Northern Ireland) 2008

6.—(1) The Quality of Bathing Water Regulations (Northern Ireland) 2008(a) are amended as follows.

(2) In regulation 2, at the end insert—

“(5) For the purposes of these Regulations, a reference to a Directive is to be read as if any reference in that Directive to one or more member States or a competent authority in a provision imposing an obligation or conferring a discretion on a member State, member States or competent authority were a reference to the Department.”.

(3) In regulation 5, at the end insert—

“(5) For the purposes of this regulation, the Bathing Water Directive is to be read as if—

(a) in Article 2(13), the reference to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment were a reference to Council Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment(b);

(b) the following provisions were omitted—

(i) Article 3(8);

(ii) in Article 3(9), the final sentence;

(iii) in Article 4(2), in the second subparagraph, the second and third sentences;

(c) in Article 6(3), the reference to Directive 2000/60/EC were a reference to Article 8 of that Directive;

(d) the following provisions were omitted—

(i) Article 13;

(ii) Article 14;

(iii) Article 18;

(e) in Annex 3, in paragraph 1(a), the reference to Directive 2000/60/EC were omitted.

(6) For the purposes of paragraph (5)(c), Article 8 of Directive 2000/60/EC is to be read as if—

(a) in paragraph 1, the final indent were omitted;

(b) in paragraph 2—

(i) the first sentence were omitted;

(ii) the reference in the second sentence to Annex 5 to Directive 2000/60/EC were a reference to that Annex as modified by paragraph 16 of Schedule 5 to the Water Framework Regulations;

(c) paragraph 3 were omitted.”.

(4) In Part 6, before regulation 16, insert—

(a) S.R. 2008 No.231, as amended by S.R. 2012 No.218, S.R. 2013 No.151, S.R. 2017 No.81 and S.R. 2018 No.104

(b) OJ No L 26, 28.1.2012, p.1-21 as amended by Directive 2014/52/EU (OJ No L 124, 25.4.2014, p.1-18)

“Annual reports

15A.—(1) Subject to paragraph (2), the Department must prepare and publish, by 30th April each calendar year, a report on the bathing water season in the previous year.

(2) The first report under this regulation must be published by 30th April 2020.

(3) A report must—

(a) be published in such manner as the Department considers appropriate;

(b) contain the following information for a bathing water—

(i) the results of monitoring carried out under regulation 8;

(ii) the results of bathing water quality assessments carried out under regulation 11;

(iii) a description of any significant management measures taken.”.

The Groundwater Regulations (Northern Ireland) 2009

7.—(1) The Groundwater Regulations (Northern Ireland) 2009(a) are amended as follows.

(2) In regulation 2(1), after the definition of “river basin district and international river basin districts”, insert—

““river basin management plan” has the same meaning as in the 2017 Regulations.”.

(3) After regulation 2(4), insert—

“(5) For the purposes of these Regulations, references to the Water Framework Directive and the Directive, or to a provision of one of those Directives, are to be read in accordance with Schedule 2 (Modifications of Directives)(b).”.

(4) In regulation 8(5), for “Schedule” substitute “Schedule 1”.

(5) In regulation 10(5), for the words before sub-paragraph (a) substitute—

“Where necessary to assess the impact of existing plumes of pollution in bodies of groundwater that may threaten the achievement of the objectives in regulation 13(5) of the 2017 Regulations, the Department shall carry out an additional trend assessment in order to verify that a plume of pollution from a contaminated site does not—”.

(6) For regulation 11(1)(d), substitute—

“(d) a summary of the way in which the trend assessment from individual monitoring points within a body or a group of bodies of groundwater has contributed to identifying that those bodies are subject to a significant and sustained upward trend in concentration of any pollutant or a reversal of that trend;”.

(7) For regulation 12, substitute—

“**12.** The Department shall, for the purpose of the duty in regulation 3 of the 2017 Regulations, comply with these Regulations in exercising its functions in relation to authorisations.”.

(8) In regulation 16—

(a) in the words before sub-paragraph (a), for “in Article 4 of the Water Framework Directive and without prejudice to any more stringent requirement in EU legislation” substitute “set out in the relevant river basin management plan and without prejudice to any more stringent requirement in retained EU law”;

(b) in sub-paragraph (i) for the words from “Directive” to the end there were substituted “Chapter 3 of Part 1 of the Energy Act 2008(a) and other retained EU law which transposed Directive 2009/31/EC on the geological storage of carbon dioxide(b)”.

(a) S.R. 2009 No.254 as amended by S.R. 2009 No.359, S.R. 2011 No.211, S.R. 2014 No.208, S.R. 2016 No.119 and S.R. 2017 No.81

(b) Regulation 7(10) of these Regulations inserts Schedule 2

(9) The Schedule is renumbered as Schedule 1.

(10) After Schedule 1, insert—

“SCHEDULE 2 Modifications of Directives

Regulation 2(5)

PART 1

Modifications of the Water Framework Directive

1. A reference to the Water Framework Directive or to any provision of it, is to be read in accordance with this Part.

2. When interpreting the Water Framework 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) a reference to Article 13 of the Water Framework 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 immediately before 23rd October 2000;
- (e) the Water Framework 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—

(a) 2008 c.32.

(b) OJ No L 140, 5.6.2009, p.114–135 as last amended by Decision (EU) 2018/853 (OJ No L 150, 14.6.2018, p.155-161)

- (i) in point (a)(iv), for “Article 16(1) and (8)” there were substituted “Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy(a)”;
 - (ii) in point (b)(iii), for “paragraphs 2, 4 and 5 of Article 17” there were substituted “the 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 implementing Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy”;
 - (b) for “Directive 80/778/EEC as amended by Directive 98/83/EC” there were substituted “retained EU law implementing Directive 98/83/EC”.
- 7.** Article 11(3) is to be read as if—
- (a) in subparagraph (a), for “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(2)” there were substituted “in Annex 10”.
- 8.** 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”.
- 9.** 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(b);
 - (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

(a) OJ No L 348, 16.12.2008, p.84-97 as last amended by Directive 2013/39/EU (OJ No L 226, 24.08.2013, p.1-17)
 (b) OJ No L 334, 17.12.2010, p17-119 as last corrected by a corrigendum (OJ No L 158, 19.6.2012, p25)

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”.

10. 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^(a);
- (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 Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy 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 “the Groundwater Directive”;
- (h) in section 2.4.5, the words “Without prejudice to the Directives concerned” were omitted.

11. Annex 7 is to be read as if, in Part A—

- (a) in point 7.1, for “to implement Community legislation” there were substituted “under retained EU law”;
- (b) point 10 were omitted.

PART 2

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) OJ No L 350, 5.12.1998, p32-54, as last amended by Commission Directive (EU) 2015/1787 (OJ No L 260, 7.10.2015, p6-17)

- (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 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 paragraphs 1(b) and 2 for “the territory of a Member State” there were substituted “Northern Ireland”;
 - (b) in paragraph 3, the references to “two or more Member States” and “the Member States concerned” are to be read as a reference to “Northern Ireland and the Republic of Ireland”;
 - (c) paragraph 4 were omitted;
 - (d) 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. Annex 1 is to be read as if—
- (a) in point 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”.
6. Annex 2 is to be read as if, in Part C—
- (a) for “submitted” there were substituted “produced”;
 - (b) in point (b) for “the territory of the Member State” there were substituted “Northern Ireland”;
 - (c) in point (c)(iii) for “at national, Union or” there were substituted “in retained EU law or other applicable legislation or at”.

The Marine Licensing (Exempted Activities) Order (Northern Ireland) 2011

8.—(1) The Marine Licensing (Exempted Activities) Order (Northern Ireland) 2011(a) is amended as follows.

(2) In Article 34(2), in the definition of “third country vessel”—

- (a) in paragraph (a), for “(other than Gibraltar) which is not a member State” substitute “other than the United Kingdom”;
- (b) in paragraph (b), for “a member State” substitute “the United Kingdom”.

(a) S.R. 2011 No.78 as amended by S.R. 2016 No.95

The Nitrates Action Programme Regulations (Northern Ireland) 2014

9.—(1) The Nitrates Action Programme Regulations (Northern Ireland) 2014(a) are amended as follows.

(2) In regulation 2, for the first sentence substitute—

“These Regulations shall apply to the whole territory of Northern Ireland as required under the Protection of Water Against Agricultural Nitrate Pollution Regulations (Northern Ireland) 2004(b).”.

(3) In regulation 3(2)—

(a) for the definition of “action programme” substitute—

““action programme” means measures regarding the protection of water against pollution caused by nutrients from agricultural sources as set out in these Regulations;”;

(b) for the definition of “derogation” substitute—

““derogation” means a derogation from the limit of livestock manure that can be applied to land each year, approved by the Department in accordance with regulation 12;”;

(c) omit the definition of “Directive”.

(4) In regulation 5, omit “, in accordance with Article 4 of the Directive,”.

(5) In regulation 12, after paragraph (7) insert—

“(8) As part of the review conducted under regulation 33, the Department must review the overall position of derogations granted under this regulation against the effectiveness of the derogations in meeting the objectives of reducing water pollution from nitrates and preventing further pollution.”.

(6) For regulation 32, substitute—

“Implementation Report

32.—(1) The Department must prepare a report on the implementation of these Regulations at four-yearly intervals.

(2) A report under paragraph (1) must contain—

(a) details of any steps taken to promote good agricultural practice;

(b) a summary of the monitoring results on the effectiveness of the action programme;

(c) a summary of the most recent review conducted under regulation 33.

(3) A report under paragraph (1) must be published—

(a) in such manner as the Department considers appropriate;

(b) by the last day of the six months period beginning with the day on which the four-yearly interval ends.”.

(7) In regulation 33—

(a) in the heading at the end insert “the action programme”;

(b) in paragraph (2) for “by Article 5 of the Directive” substitute “by these Regulations”;

(c) in paragraph (3)(a) omit “in accordance with Article 2 of Directive 2003/35/EC(a)”.

The Phosphorus (Use in Agriculture) Regulations (Northern Ireland) 2014

10.—(1) The Phosphorus (Use in Agriculture) Regulations (Northern Ireland) 2014(a) are amended as follows.

(a) S.R. 2014 No. 307 as amended by S.R. 2015 No.369

(b) S.R. 2004 No.419

- (2) In regulation 2(2), omit the definition of “Directive”.
- (3) In regulation 4, omit “, in accordance with Article 4 of the Directive,”.

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

11.—(1) The Water Framework Directive (Classification, Priority Substances and Shellfish Waters) Regulations (Northern Ireland) 2015**(b)** are amended as follows.

(2) After regulation 2(3), insert—

“(4) For the purposes of these Regulations, references to the Water Framework Directive, the Directive and Directive 2009/90/EC or to a provision of one of those Directives, are to be read in accordance with Schedule 6 (Modifications of Directives)**(c)**.”.

(3) In regulation 15—

- (a) in paragraph (1), after “the Commission” insert “, immediately before exit day,”;
- (b) in paragraph (2)(b), at the end insert “,immediately before exit day”;
- (c) in paragraph (4)(b), after “lists” insert “produced immediately before exit day”.

(4) For regulation 16 substitute—

“**16.** The Department may opt not to undertake additional monitoring under the watch list mechanism for a particular substance if the Department has sufficient, comparable, representative and recent monitoring data for the substance from existing monitoring programmes or studies.”.

(5) In regulation 17—

- (a) in paragraph (1)—
 - (i) for “report” substitute “publish”;
 - (ii) omit “to the Commission”;
- (b) in paragraph (2), for “reports” substitute “results”.

(6) In regulation 20(5) and 21(4) omit “in accordance with the requirements of the Water Framework Directive”.

(7) For regulation 24(2), substitute—

“(2) The Department must record measures it has taken to address the issue of transboundary pollution in the relevant river basin management plan.”.

(8) Omit regulation 25.

(9) After Schedule 5, insert—

“**SCHEDULE 6**

Regulation 2(4)

Modifications of Directives

PART 1

Modifications of the Water Framework Directive

1. A reference to the Water Framework Directive, or to any provision of it, is to be read in accordance with this Part.

(a) S.R. 2014 No.308
 (b) S.R. 2015 No.351 as amended by S.R. 2017 No.81
 (c) Regulation 11(9) of these Regulations inserts Schedule 6

2. When interpreting the Water Framework 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) a reference to Article 13 of the Water Framework 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 Water Framework Directive is to be read as if the following modification 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—
 - (i) in point (a)(iv), for “Article 16(1) and (8)” there were substituted “the Directive”;
 - (ii) in point (b)(iii), for “paragraphs 2, 4 and 5 of 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(a)”;
- (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 implementing the Directive”;
- (b) for “Directive 80/778/EEC as amended by Directive 98/83/EC” there were substituted “retained EU law implementing Directive 98/83/EC”.

(a) OJ No L 372, 27.12.2006, p.19-31, as last amended by Commission Directive 2014/80/EU (OJ No L 182, 21.6.2014, p.52-55)

- 7.** 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”.
- 8.** 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”.
- 9.** 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”.
- 10.** 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(a);
 - (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”.
- 11.** 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

(a) OJ No L 334, 17.12.2010, p17-119, as last corrected by a corrigendum (OJ No L 158, 19.6.2012, p25)

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(a);
- (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(b) as last amended by Commission Directive 2014/80/EU(c)”;
- (h) in section 2.4.5, the words “Without prejudice to the Directives concerned” were omitted.

12. Annex 6 is to be read as if Part A were omitted.

13. 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 Directive

1. A reference to the Directive or to any provision of the Directive is to read in accordance with this Part.

2. When interpreting the 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 Directive is to be read as if the following modifications were made to it.

3. Article 4 is to be read as if—

- (a) in paragraph 3(b)—

(a) OJ No L 330, 5.12.1998, p32-54, as last amended by Commission Directive (EU) 2015/1787 (OJ No L 260, 7.10.2015, p6-17)

(b) OJ No L 372, 27.12.2006, p.19-31 as last amended by Commission Directive 2014/80/EU (OJ No L 182, 21.6.2014, p.52-55)

(c) OJ No L 182, 21.6.2014, p.52-55

- (i) the reference to “Community law” is to be read as if it were a reference to retained EU law;
- (ii) the words “and Article 10 of Directive 2000/60/EC” were omitted.

PART 3

Modifications of Directive 2009/90/EC

1. A reference to Directive 2009/90/EC, or to any provision of it, is to be read in accordance with this Part.

2. When interpreting Directive 2009/90/EC for the purposes of these Regulations, 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.”.

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

12.—(1) The Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2017(a) are amended as follows.

(2) After regulation 2(4), insert—

“(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)(b).”.

(3) In regulation 10(2)(b)—

- (a) For “any EU instrument” substitute “retained EU law”;
- (b) Omit “, or any enactment implementing such an EU instrument”.

(4) In regulation 11—

- (a) in paragraph (2)(c)(i), for “the EU legislation” substitute “retained EU law”;
- (b) in paragraph (3)(c), for “1.4. to 1.4.3” substitute “1.4.1 (excluding points (iv) to (ix)), 1.4.2 and 1.4.3”;
- (c) after paragraph (3), insert—

“(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.”.

(5) In regulation 13(6)—

- (a) in the words before sub-paragraph (a), for “any EU instrument” substitute “the retained EU law”;
- (b) in sub-paragraph (b), for “that EU instrument” substitute “the relevant retained EU law”.

(6) In regulation 14(b), for “the implementation of any other EU instrument” substitute “any other retained EU law”.

(7) In regulation 20(2)—

- (a) omit sub-paragraph (a);
- (b) in sub-paragraph (j)(iv)(aa), for the words from “Directive” to the end substitute “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) omit sub-paragraph (j)(iv)(bb).

(a) S.R. 2017 No.81

(b) Regulation 12(12) of these Regulations inserts Schedule 5

- (8) In regulation 31, for paragraph (3) substitute—
- “(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.”.
- (9) In Schedule 1—
- (a) in paragraph 1(1)(a), at the end insert “and Schedule 5 applies in relation to it”;
 - (b) in sub-paragraph (2), in the definition of “good surface water chemical status”, for “other relevant EU legislation setting environmental quality standards at EU level” substitute “relevant retained EU law which sets environmental quality standards”.
- (10) In Schedule 2, omit paragraph 3.
- (11) Omit Schedule 3.
- (12) After Schedule 4, insert—

“SCHEDULE 5 Regulation 2(5)
Modification of Directives

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—
 - (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^(a);
 - (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^(b);
- (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

^(a) OJ No L 334, 17.12.2010, p17-119, as last corrected by a corrigendum (OJ No L158, 19.6.2012, p25)

^(b) OJ No L 330, 5.12.1998, p32-54, as last amended by Commission Directive (EU) 2015/1787 (OJ No L 260, 7.10.2015, p6-17)

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^(a) 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.

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) OJ No L 372, 27.12.2006, p.19-31 as last amended by Commission Directive 2014/80/EU (OJ No L 182, 21.6.2014, p.52-55)

- (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.”.

The Private Water Supplies Regulations (Northern Ireland) 2017

13.—(1) The Private Water Supplies Regulations (Northern Ireland) 2017(a) are amended as follows.

(2) In regulation 2, at the end insert—

“(3) In these Regulations, a reference to a Directive or an Euratom Directive is to be read as if any reference in that Directive to one or more Member States in a provision imposing an obligation or conferring a discretion on a Member State or Member States were a reference to the Department.”.

(3) In regulation 18—

(a) omit paragraph (7);

(b) in paragraph (8) omit “If the Department intends to grant a second authorisation, this must be communicated to the European Commission along with the results of the review.”;

(c) For paragraph (10) substitute—

“(10) If towards the end of the second period of authorisation the Department considers that sufficient progress has not been made the Department may grant a third period of authorisation but only if the Department considers that there are exceptional circumstances to justify doing so.”.

(4) In Part 3 of Schedule 3, in paragraph 5(8), for “communicated to the European Commission” substitute “published, in such manner as the Department considers appropriate”.

(5) In Part 1 of Schedule 4, omit paragraph 3(2).

The Water Supply (Water Quality) Regulations (Northern Ireland) 2017

14.—(1) The Water Supply (Water Quality) Regulations (Northern Ireland) 2017(b) are amended as follows.

(2) In regulation 2, at the end insert—

“(5) In these Regulations, a reference to a Directive or an Euratom Directive is to be read as if any reference in that Directive to one or more Member States in a provision imposing an obligation or conferring a discretion on a Member State or Member States were a reference to the Department.”.

(3) Omit regulation 18(18).

(4) In regulation 19(7) for the words “communicated to the European Commission” substitute “published, in such manner as the Department considers appropriate”.

(5) In regulation 25—

(a) in paragraph (5), for “further departure” substitute “further two departures”;

(b) omit paragraphs (7) and (8).

(6) In regulation 33—

(a) omit paragraph (2)(a) (together with the final “or”);

(b) in paragraph (2)(b) omit “of an EEA state or Turkey”;

(a) S.R. 2017 No.211

(b) S.R. 2017 No.212

- (c) omit paragraph (3)(b);
- (d) in paragraph (14) omit from “In this regulation” to “Information Society services.”.

Sealed with XXX



Date

Thérèse Coffey
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

DRAFT

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers in the European Union (Withdrawal) Act 2018 (c. 16) to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in respect of water quality. Part 2 amends primary legislation and Part 3 amends secondary legislation.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

DRAFT