SCOTTISH STATUTORY INSTRUMENTS

2005 No. 305

WATER

The Nitrate (Public Participation etc.) (Scotland) Regulations 2005

Made - - - -	*2nd June 2005*
Laid before the Scottish Parliament - - - -	*3rd June 2005*
Coming into force - -	*25th June 2005*

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Nitrate (Public Participation etc.) (Scotland) Regulations 2005 and shall come into force on 25th June 2005.

Amendments to the Protection of Water Against Agricultural Nitrate Pollution (Scotland) Regulations 1996

2.—(1) The Protection of Water Against Agricultural Nitrate Pollution (Scotland) Regulations 1996(**2**) are amended in accordance with the following paragraphs of this regulation.

(2) In regulation 2(1) (interpretation)–

(a) in the definition of "code of good agricultural practice", for "published in 1997 by the Scottish Office which are aimed at reducing pollution by nitrates" substitute "which are aimed at reducing pollution by nitrates, issued by the Scottish Ministers on 11th March 2005, having been approved by virtue of the Water (Prevention of Pollution) (Code of Practice) (Scotland) Order 2005(**3**)"; and

(b) after the definition of "pollution" insert–

(**1**) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(**2**) S.I.1996/1564, amended by S.I. 1998/2927, S.S.I. 2000/96 and 2002/276.

(**3**) S.S.I. 2005/63.

""the public" means one or more natural or legal persons and any body of persons (whether incorporated or not);".

(3) After regulation 6 (action programmes) insert–

"**Preparation etc. of action programmes: public participation**

6A.—(1) The Scottish Ministers shall ensure that the public is given early and effective opportunities to participate in the establishment, review or revision of an action programme, in accordance with paragraphs (2) and (3) below.

(2) The Scottish Ministers shall–

(a) ensure that the public is informed, whether by public notice or other appropriate means such as electronic media, about any proposals for the establishment, review or revision of an action programme;

(b) ensure that information about the proposals referred to in sub paragraph (a) above is made available to the public, including information about the right to participate in decision making in relation to those proposals;

(c) ensure that the public is entitled to make comments before any decision is made on the establishment, review or revision of an action programme;

(d) in making any such decision, take due account of the results of the public participation; and

(e) having examined the comments made and opinions expressed by the public, make reasonable efforts to inform the public about–

(i) the decisions taken and the reasons and considerations on which those decisions are based; and

(ii) the public participation process.

(3) The Scottish Ministers shall publish any information required to carry out their functions under paragraphs (1) and (2) above in such manner as they consider appropriate for the purpose of bringing it to the attention of the public and without prejudice to the foregoing shall–

(a) publish such information on their website; and

(b) specify in a notice on the website the detailed arrangements made to enable public participation in the establishment, review or revision of an action programme including–

(i) the address to which comments may be submitted; and

(ii) the period within which such comments may be submitted.

(4) The Scottish Ministers shall ensure that sufficient time is allowed for each of the different stages of public participation required by paragraph (2) above.".

Amendment to the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2002

3. In regulation 2(1) of the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2002(**4**), in the definition of "code of good agricultural practice", for "Nitrogen and Phosphorous Supplement published in 2001 by the Scottish Executive which are aimed at reducing pollution by nitrates" substitute "which are aimed at reducing pollution by nitrates and which was issued by the Scottish Ministers on 11th March 2005, having been approved by virtue of the Water (Prevention of Pollution) (Code of Practice) (Scotland) Order 2005(**5**)".

(**4**) S.S.I. 2002/276.
(**5**) S.S.I. 2005/63.