STATUTORY INSTRUMENTS

2017 No. 407

WATER RESOURCES, ENGLAND AND WALES

The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017

Made - - - -	*15th March 2017*
Laid before Parliament	*16th March 2017*
Laid before the National Assembly for Wales - -	*16th March 2017*
Coming into force - -	*10th April 2017*

[F1]The Secretary of State and the Welsh Ministers, acting respectively in relation to river basin districts that are wholly in England and river basin districts that are wholly in Wales, and jointly in relation to river basin districts that are partly in England and partly in Wales, make these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 .

The Secretary of State is designated for the purposes of that section of that Act in relation to the environment [F2], and the Welsh Ministers are designated for the purposes of that section of that Act in relation to water resources [F3].

F1 1972 c. 68; section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).

F2 S.I. 2008/301.

F3 S.I. 2003/2901, to which there are amendments not relevant to these Regulations. The functions conferred on the National Assembly for Wales by means of that Order are now exercisable by the Welsh Ministers by virtue of paragraph 28(1) of Schedule 11 to the Government of Wales Act 2006 (c.32).

Modifications etc. (not altering text)

C1 Regulations: power to amend or modify conferred (9.1.2022) by Environment Act 2021 (c. 30), **ss. 90**, 147(2)(m) (with s. 144)

C2 Regulations power to amend or modify conferred (9.1.2022 for specified purposes, 28.2.2022 in so far as not already in force for N.I.) by Environment Act 2021 (c. 30), **ss. 89**, 147(2)(l)(6) (with s. 144); S.R. 2022/54, art. 2(1)(n)

PART 1

Introduction

Citation, commencement, extent and application

1. These Regulations—

(a) may be cited as the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 and come into force on 10th April 2017;

(b) extend to England and Wales;

(c) apply only in relation to river basin districts identified under regulation 4(1).

Interpretation

2.—(1) In these Regulations—

"the 2003 Regulations" means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 [F4];

"the WFD" 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 [F5];

"the GWD" means Directive 2006/118/EEC of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration [F6];

"the EQSD" means Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy [F7];

"the Agency" means the Environment Agency;

"the appropriate agency", except as provided for by regulation 9(8), means—

(a) in relation to a river basin district that is wholly in England, the Agency;

(b) in relation to a river basin district that is wholly in Wales, NRW;

(c) in relation to a river basin district that is partly in England and partly in Wales, the Agency and NRW acting jointly;

"the appropriate authority", except as provided for by regulation 9(8), means—

(a) in relation to a river basin district that is wholly in England, the Secretary of State;

(b) in relation to a river basin district that is wholly in Wales, the Welsh Ministers;

(c) in relation to a river basin district that is partly in England and partly in Wales, the Secretary of State and the Welsh Ministers acting jointly;

"artificial or heavily modified water body" means a body of surface water designated as such under regulation 15;

"body of water" means a body of groundwater or a body of surface water;

"drinking water protected area" has the meaning given by regulation 8;

"England" includes the territorial sea adjacent to England not forming any part of Wales;

"environmental objectives", in relation to a river basin district or body of water, means the objectives set under regulation 12 in accordance with regulation 13;

"NRW" means the Natural Resources Body for Wales;

"programme of measures", in relation to a river basin district, means the programme of measures established under regulation 12 in accordance with regulation 20;

"protected area" means an area included on a register in accordance with regulation 10;

"public body" does not include a Minister of the Crown within the meaning of the Ministers of the Crown Act 1975 [F8], the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Government, but does include—

(a) a person otherwise holding an office—

(i) under the Crown,

(ii) created or continued in existence by a public general Act of Parliament, or

(iii) the remuneration in respect of which is paid out of money provided by Parliament;

(b) a statutory undertaker, being a person who by virtue of section 262 of the Town and Country Planning Act 1990 [F9] is, or is deemed to be, a statutory undertaker for any purpose;

"relevant functions" means functions under these Regulations and, so far as material, the enactments listed in Parts 1 and 2 of Schedule 2 (which relate to statutes and subordinate legislation);

"river basin district" means an area identified by regulation 4(1), being the main unit for the management of river basins for the purposes of the WFD and being made up of a river basin or neighbouring river basins, together with associated groundwater, transitional waters and coastal water;

"river basin management plan" means a plan to which Part 6 applies;

"shellfish" means any bivalve or gastropod mollusc;

"shellfish water protected area" has the meaning given by regulation 9;

"status", in relation to a body of water, is a reference to its surface water status or groundwater status (as the case may be);

"the table of priority substances" means the table in Part A of Annex I to the EQSD;

"Wales" has the meaning given by section 158 of the Government of Wales Act 2006 [F10];

"water intended for human consumption" has the same meaning as in Council Directive 98/83/EC on the quality of water intended for human consumption [F11].

(2) In these Regulations, where the appropriate agency is required to make copies of a list, statement, summary, draft plan or plan accessible to the public free of charge—

(a) references to doing so through its website mean—

(i) where the Agency is the appropriate agency, through its website;

(ii) where NRW is the appropriate agency, through its website;

(iii) where the Agency and NRW acting jointly are the appropriate agency, through their respective websites;

(b) references to doing so at its principal office mean—

(i) where the Agency is the appropriate agency, at its principal office;

(ii) where NRW is the appropriate agency, at its principal office;

(iii) where the Agency and NRW acting jointly are the appropriate agency, at their principal offices.

(3) Expressions used in both these Regulations and the WFD and which are listed in Schedule 1 have the meaning given in that Schedule.

(4) Expressions used in both these Regulations and the WFD and not otherwise defined in these Regulations have the same meaning for the purposes of these Regulations as they do for the purposes of the WFD.

[[F12](5) For the purposes of these Regulations, references to the WFD, GWD and EQSD, or to a provision of one of them, are to be read in accordance with Schedule 5.**]**

F4 S.I. 2003/3242, amended by S.I. 2005/2035, 2010/630, 2011/556, 603, 1043, 2013/755 (W. 90), 2015/1623, 2016/138, 1154.
F5 OJ No L 327, 22.12.2000, p1, as last amended by Commission Directive 2014/101/EU (OJ No L 311, 31.10.2014, p32).
F6 OJ No L 372, 27.12.2006, p19, as last amended by Commission Directive 2014/80/EU (OJ No L 182, 21.6.2014, p52).
F7 OJ No L 348, 24.12.2008, p84, as last amended by Directive 2013/39/EU (OJ No L 226, 24.8.2013, p1).
F8 1975 c. 26.
F9 1990 c. 8; section 262 was amended by section 84 of, and Part 2 of Schedule 19 to, the Planning and Compensation Act 1991 (c. 34), **section 76(7)** of the Utilities Act 2000 (c. 27), **section 37** of, and Schedule 5 to, the Transport Act 2000 (c. 38) and by S.I. 2001/1149 and 2013/755 (W. 90).
F10 2006 c. 32; there are amendments to section 158 not relevant to these Regulations.
F11 OJ No L 330, 5.12.1998, p32, as last amended by Commission Directive (EU) 2015/1787 (OJ No L 260, 7.10.2015, p6).
F12 Reg. 2(5) inserted (31.12.2020) by The Floods and Water (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/558), regs. 1(1), **20(2)**; 2020 c. 1, Sch. 5 para. 1(1)

Duties on ministers and regulators

3.—(1) The Secretary of State, the Welsh Ministers, the Agency and NRW must exercise their relevant functions so as to secure compliance with the requirements of the WFD, the EQSD and the GWD.

(2) Without prejudice to the generality of paragraph (1), the Secretary of State, the Welsh Ministers, the Agency and NRW must determine an authorisation so as, in particular—

(a) to prevent deterioration of the surface water status or groundwater status of a body of water (subject to the application of regulations 18 and 19), and

(b) otherwise to support the achievement of the environmental objectives set for a body of water (subject to the application of regulations 16 to 19).

(3) In paragraph (2), "determine an authorisation" means decide whether to grant, vary or revoke, or impose conditions (and if so which conditions) on—

(a) an environmental permit under the Environmental Permitting (England and Wales) Regulations 2016 [F13];

(b) a licence for an abstraction or impoundment under Chapter 2 of Part 2 of the Water Resources Act 1991 [F14].

(4) The Secretary of State, the Welsh Ministers, the Agency and NRW must exercise their relevant functions in relation to each river basin district so as best to secure that the requirements of the WFD, the EQSD and the GWD for the achievement of the environmental objectives, and in particular programmes of measures, are coordinated for the whole of that district.

F13 S.I. 2016/1154.
F14 1991 c. 57.

PART 2

River basin districts and water bodies

Map of river basin districts

4.—(1) The areas shown on the official map are identified as river basin districts for the purposes of these Regulations.

(2) In this regulation, "the official map" means the map of river basin districts produced by the Agency and published on its website.

(3) NRW must ensure that the official map is published on its website.

(4) The Agency and NRW must ensure that the official map is made available to the public at their principal offices.

Characterisation of river basin districts

5.—(1) The appropriate agency must undertake and periodically review and (where appropriate) update, in accordance with Annex II to the WFD (characterisation of waters)—

(a) an analysis of the characteristics of each river basin district, and

(b) a review of the impact of human activity on the status of surface water and groundwater in each river basin district.

(2) A review and any update must be done—

(a) by 22nd December 2019, and

(b) subsequently, by 22nd December of the sixth year following that date and of each sixth year following that.

(3) In relation to a review of the characteristics of each river basin district under paragraph (1)(a), the appropriate agency must include in the relevant river basin management plan an explanation of the approach taken to the use of System A or B in paragraph 1.1 and 1.2 to 1.2.4 (characterisation of surface water body types) of Annex II to the WFD.

Classification of water bodies

6. The appropriate agency must classify the status of bodies of water in accordance with Annex V to the WFD and such directions as the appropriate authority may give to the appropriate agency.

Economic analysis of water use in river basin districts

7.—(1) The appropriate authority must undertake and periodically review and (where appropriate) update, in accordance with Annex III to the WFD (economic analysis), an economic analysis of water use in each river basin district.

(2) A review and any update must be done—

(a) by 22nd December 2019, and

(b) subsequently, by 22nd December of the sixth year following that date and of each sixth year following that.