STATUTORY INSTRUMENTS

2016 No. 138

WATER RESOURCES, ENGLAND AND WALES

The Water Environment (Water Framework Directive) (England and Wales) (Amendment) Regulations 2016

Made - - - -	*9th February 2016*
Laid before Parliament	*10th February 2016*
Laid before the National Assembly for Wales - -	*10th February 2016*
Coming into force - -	*3rd March 2016*

The Secretary of State makes these Regulations in exercise of the powers conferred by—

(a) section 2(2) of the European Communities Act 1972 ("the 1972 Act")(**1**), in relation to river basin districts that are wholly in England(**2**);

(b) sections 82 and 219(2) of the Water Resources Act 1991 ("the 1991 Act")(**3**), in relation to England, and with the agreement of the Welsh Ministers, in respect of those parts of Wales(**4**) within the catchment areas of the rivers Dee, Wye and Severn(**5**); and

(c) section 102 of the 1991 Act(**6**), in relation to river basin districts in England and Wales.

The Welsh Ministers make these Regulations in exercise of the powers conferred by—

(a) section 2(2) of the 1972 Act in relation to river basin districts that are wholly in Wales; and

(b) sections 82 and 219(2) of the 1991 Act, in relation to those parts of Wales not within the catchment areas of the rivers Dee, Wye and Severn.

The Secretary of State and the Welsh Ministers make these Regulations jointly in exercise of the powers conferred by section 2(2) of the 1972 Act in relation to river basin districts that are partly in England and partly in Wales.

(**1**) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).
(**2**) "River basin district" and "England" are defined in regulation 2(1) of S.I. 2003/3242.
(**3**) 1991 c. 57; section 219(2) was amended by paragraph 176(a) of Schedule 22, and Schedule 24, to the Environment Act 1995 (c. 25) and paragraph 28(4) of Part 2 of Schedule 7 to the Water Act 2003 (c. 37).
(**4**) "Wales" is defined in regulation 2(1) of S.I. 2003/3242.
(**5**) The functions of the Secretary of State, in relation to Wales, under section 82 (except in relation to those parts of Wales which are within the catchment areas of the rivers Dee, Wye and Severn) and section 219(2) of the Water Resources Act 1991 were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). By virtue of article 5 and Schedule 2 to S.I. 1999/672, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006, the functions of the Secretary of State under section 82 of the Water Resources Act 1991 are exercisable only with the agreement of the Welsh Ministers in relation to those parts of Wales which are within the catchment areas of the rivers Dee, Wye and Severn.
(**6**) Section 102 was amended by S.I. 2011/1043.

The Secretary of State is a Minister designated for the purposes of section 2(2) of the 1972 Act in relation to the environment(**7**) and the Welsh Ministers are designated for the purposes of that provision in relation to measures relating to water resources(**8**).

Citation, extent and commencement

1. These Regulations—

(a) may be cited as the Water Environment (Water Framework Directive) (England and Wales) (Amendment) Regulations 2016;

(b) extend to England and Wales; and

(c) come into force on 3rd March 2016.

Amendment of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003

2. The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003(**9**) are amended in accordance with regulations 3 to 10.

Amendment of regulation 2 (interpretation)

3.—(1) In regulation 2(1)—

(a) in the definition of "appropriate agency", before "means" insert ", except as provided for by regulation 7A(8),";

(b) in the definition of "appropriate authority", before "means" insert ", except as provided for by regulation 7A(8),";

(c) for the definition of "environmental objectives" substitute—

> ""environmental objectives", in relation to a river basin district, means—
>
> (a) the objectives required to comply with Article 4 of the Directive (environmental objectives) including any objectives required to comply with Article 7(2) and (3) of the Directive (waters used for the abstraction of drinking water), and the EQS Directive; and
>
> (b) in relation to a shellfish water protected area, without prejudice to the objectives under paragraph (a) for the river basin district in which the shellfish water protected area is situated, the water quality objectives necessary or desirable to improve or protect that shellfish water protected area in order to support shellfish life and growth and to contribute to the high quality of shellfish products suitable for human consumption;";

(d) after the definition of "river basin district", insert—

> ""shellfish" means any bivalve or gastropod mollusc;
>
> "shellfish water objectives" means the objectives referred to in paragraph (b) of the definition of environmental objectives;

(**7**) S.I. 2008/301.

(**8**) 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.

(**9**) S.I. 2003/3242, amended by S.I. 2005/2035, 2011/603, 2011/1043, 2013/755, 2015/1623; there are other amending instruments but none are relevant.

"shellfish water protected area" means an area of water designated under regulation 7A(1);".

(2) In regulation 2(1A), before "statement" insert "list,"; and

(3) In regulation 2(1B), before "statement" insert "list,".

New regulation 7A (designation of shellfish waters)

4. After regulation 7 insert—

"**Designation of shellfish waters**

7A.—(1) Subject to paragraph (4), the appropriate authority may designate any area of coastal or transitional water within a river basin district as a shellfish water protected area by including it in the relevant list.

(2) In relation to a shellfish water protected area which is wholly in England, the relevant list is the list entitled "Shellfish Waters (England) 2016" and dated 8th February 2016.

(3) In relation to a shellfish water protected area which is wholly in Wales, the relevant list is the list entitled "Shellfish Waters (Wales) 2016" and dated 8th February 2016.

(4) An area of coastal or transitional water may not be included in the relevant list unless the appropriate authority considers that to do so is necessary or desirable in order to protect or develop economically significant shellfish production.

(5) The appropriate authority may from time to time review each designation made under paragraph (1).

(6) The first review under this regulation must be completed by 22nd December 2021 and afterwards reviews must be completed at intervals not exceeding 6 years.

(7) The appropriate agency must ensure that the relevant list is—

(a) published on its website; and

(b) made available to the public at its principal offices.

(8) In this regulation—

"appropriate agency" means—

(a) in relation to a shellfish water protected area that is wholly in England, the Agency;

(b) in relation to a shellfish water protected area that is wholly in Wales, the NRBW;

"appropriate authority" means—

(a) in relation to a shellfish water protected area or proposed area that is wholly in England, the Secretary of State;

(b) in relation to a shellfish water protected area or proposed area that is wholly in Wales, the Welsh Ministers.".

Amendment of regulation 8 (register of protected areas)

5. In regulation 8(2)—

(a) at the end of paragraph (a) omit "and";

(b) after paragraph (a) insert—

"(aa) a shellfish water protected area;".