STATUTORY RULES OF NORTHERN IRELAND

2019 No. 81

ENVIRONMENTAL PROTECTION

The Nutrient Action Programme Regulations (Northern Ireland) 2019

Made - - - -	*8th April 2019*
Coming into operation	*11th April 2019*

The Department of Agriculture, Environment and Rural Affairs being a Department designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to the environment, in exercise of the powers conferred by that section and in exercise of the powers conferred by Article 32 of the Waste and Contaminated Land (Northern Ireland) Order 1997 [F3], and now vested in it [F4] makes the following Regulations.

In accordance with Article 32(3) of that Order the Department has published in the Belfast Gazette a notice indicating the effect of these regulations and specifying the matters referred to in sub-paragraph (a)(i) to (iii). The Department has taken into consideration the representations made to it in accordance with that notice.

F1 S.I. 2008/301
F2 1972 c.68
F3 S.I. 1997 No.2778 (N.I. 19)
F4 S.R. 2016 No. 76, **article 8(1)(c)**

PART 1

Preliminary

Citation and commencement

1.—(1) These Regulations may be cited as the Nutrient Action Programme Regulations (Northern Ireland) 2019 and come into operation on 11th April 2019.

Purpose and application of the Regulations

2.—(1) 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 [F5].

(2) The purpose of these Regulations is to give effect to Northern Ireland's Nutrient Action Programme for the protection of waters against pollution caused by agricultural sources. The measures in these Regulations provide a basic level of protection against possible adverse impact to waters arising from potential agricultural expansion.

F5 S.R. 2004 No. 419

Interpretation

3.—(1) The Interpretation Act (Northern Ireland) 1954 [F6] applies to these Regulations as it applies to Act of the Assembly.

(2) In these Regulations—

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

"adequate effluent collection facilities" means effluent collection facilities that meet the requirements of regulation 17(4);

"agricultural area" means any land suitable for agricultural activities, including any common land used for grazing and excludes area under farm roads, paths, buildings, woods, dense scrub, rivers, streams, ponds, lakes, sandpits, quarries, areas of peat cutting, bare rock, area of forestry and areas of fenced off or inaccessible other than forests where the use of the same is ancillary to the farming of land for other agricultural purposes;

"agricultural land" has the same meaning as in the Agriculture Act (Northern Ireland) 1949 [F7];

"anaerobic digestate" means a stable, sanitised material resulting from the mesophilic and thermophilic biological decomposition and stabilisation of biodegradable waste carried out under controlled anaerobic conditions, and which can be applied to land for the benefit of agriculture or to improve the soil structure or nutrient in land;

"anaerobic digestate fibre" means the solid material separated out of anaerobic digestate;

"Appeals Commission" means the Water Appeals Commission for Northern Ireland as constituted in accordance with Article 292 of the Water and Sewage Services (Northern Ireland) Order 2006 [F8];

"appropriate person" means—

(a) the controller;

(b) any person, whether or not permitted by the controller to carry out any activity described in these Regulations;

(c) the owner of any storage facilities for storage of livestock manure, silage and silage effluent; and

(d) any person using such storage facilities for storage of livestock manure, silage and silage effluent;

"authorised person" means a person authorised by the Department in accordance with Article 72 of the Order;

"available nitrogen" means forms of nitrogen that can be taken up by a crop immediately or within a short period;

"available phosphorus" means forms of phosphorus that can be taken up by a crop immediately or within a short period, the proportion of which contained in fertilisers is set out in Table 3 of Schedule 3;

"chemical fertiliser" means any fertiliser in which the declared plant nutrients are in the form of minerals obtained by extraction or by physical or chemical industrial processes;

"chemical nitrogen fertiliser" means any fertiliser containing one or more nitrogen compounds which is manufactured or blended by an industrial process;

"chemical phosphorus fertiliser" means any fertiliser containing one or more phosphorus compounds which is manufactured or blended by an industrial process;

"Code of Good Agricultural Practice" means the "Code of Good Agricultural Practice for the Prevention of Pollution of Water, Air and Soil" published by the Department (as may be amended from time to time);

"construct" includes install;

"controller" means in relation to a holding, the person charged with management of the holding for the calendar year in question and will be taken to be the person claiming direct agricultural aid payments for the agricultural area or, where direct agricultural aid payments are not being claimed, the person who enjoys the decision making power, benefits and financial risks in relation to the agricultural activity carried out on the land;

"crop requirement" means the amount of nitrogen, phosphorus and other plant nutrients in fertiliser which is reasonable to apply to land in any year for the purpose of promoting the growth of the crop having regard to the foreseeable nutrient supply to the crop from the soil and from other sources, including any previous applications of livestock and other organic manure and any chemical fertilisers estimated as described in the fertiliser technical standards and, with regard to nitrogen, regulations 9, 10, 11 and 12;

"Department" means the Department of Agriculture, Environment and Rural Affairs;

[[F9]"derogated holding" means a grassland holding for which a derogation has been granted;

"derogation" means a derogation from the limit of livestock manure that can be applied to land each year, granted by the Department in accordance with regulation 39;

"derogation application" means an application for derogation submitted by the controller to the Department in such manner as it may require;**]**

"direct agricultural aid payments" means the Basic Payment Scheme as referred to in Title III of Regulation (EU) No 1307/2013 [F10] or payments to areas facing natural or other specific constraints as referred to in Article 31 of Regulation EU No 1305/2013 [F11];

"dirty water" means water contaminated by organic manure, urine, effluent, milk and cleaning materials with a Biochemical Oxygen Demand (BOD) no greater than 2000 mg/litre and total nitrogen and dry mater contents no greater than set out in Table 2 of Schedule 2;

"environment" means any or all of the following media, namely the air, water and land;

"farmyard manure" means a mixture of bedding material and animal excreta in solid form arising from the housing of cattle, sheep and other livestock, excluding poultry manure, but including spent mushroom compost and the stackable solids fraction from mechanical separation of slurry excluding pig slurry;

"fertilisation plan" means a plan prepared in accordance with regulation 16;

"fertiliser" means any substance containing plant nutrients utilised on land to enhance growth of vegetation and may include livestock manure, the residues from fish farms and sewage sludge;

"fertiliser technical standards" means—

(a) the "AHDB Nutrient Management Guide (RB209) January 2019" (as may from time to time be reissued) and any supplementary guidance;

(b) with regards to phosphorus recommendations for grassland, Tables 1 and 2 of Schedule 3; and

(c) any other publication by Department for Environment, Food and Rural Affairs or the Department substituting any of the standards referred to in paragraphs (a) and (b);

"forage crop" means any crop grown as food for animals;

"grassland" means any land on which the vegetation consists predominately of grass species;

"grassland holding" means a holding where 80% or more of the agricultural area available for manure application is cultivated with grass;

"grazing livestock" means cattle (with the exclusion of veal calves), sheep, deer, goats and horses;

"heavy rain" means more than 4 mm of rain per hour;

"holding" in relation to a controller means all the agricultural area managed by that controller;

"lake" means a body of standing inland surface water;

"land application" means the addition of materials to agricultural land whether by spreading on the surface of the land, injection into the land, placing below the surface of the land or mixing with the surface layers of the land but does not include the direct deposition of manure onto land by animals;

"livestock" means any animal kept for use or profit;

"livestock enterprise" means any enterprise where livestock are kept;

"livestock manure" means waste products excreted by livestock, or a mixture of litter and waste products excreted by livestock, even in processed form;

"livestock unit of cattle" has the meaning given in Schedule 1;

[[F9]"low emission slurry spreading equipment" means equipment which is used to spread slurry by bandspreading, dribble bar, trailing hose, trailing shoe, soil incorporation or soil injection methods;**]**

"midden" means a storage facility with an impermeable base for solid, stackable organic manure;

"nitrogen compound" means any nitrogen-containing substance except for gaseous molecular nitrogen;

"nitrogen fertiliser" means any substance, including chemical fertiliser, containing one or more nitrogen compounds utilised on land to enhance growth of vegetation;

"notice" means notice in writing;

"the Order" means the Waste and Contaminated Land (Northern Ireland) Order 1997 [F12];

"organic manure" means—

(a) livestock manure; and

(b) fertiliser, not being livestock manure or chemical fertiliser, derived from organic matter, and includes anaerobic digestate, sewage sludge, residues from fish farms and other organic wastes;

"phosphorus fertiliser" means any substance, including chemical fertiliser, containing one or more phosphorus compounds utilised on land to enhance growth of vegetation;

"pig enterprise" means any enterprise with more than 10 breeding sow places or 150 finishing pig places;

"poultry enterprise" means any enterprise with more than 500 places;

"poultry litter" means a mixture of bedding material and poultry manure arising from the housing of poultry and with a dry matter content not less than 55%;

"public" means such persons as appear to the Department—

(a) to be representative of those carrying on any business which—

(i) is, or is likely to be, directly affected by the action programme; or

(ii) relies upon the water environment; or

(b) to have an interest in the protection of the water environment;

"reception pit" means a pit used for the collection of slurry before it is transferred into a slurry storage tank or for the collection of slurry discharged from such a tank;

"scientific case" means a reasoned case, as set out in guidance issued by the Department, designed to demonstrate that the proposed deviation from the values set out in Tables 1a to 1c or 2 of Schedule 2 will have no worse effect on the environment than that caused by using those values;

"silage" means any forage crop which is being, or has been, conserved by fermentation or preservation (including the use of additives), or both;

"silage effluent" means—

(a) effluent produced from any forage crop which is being made, or has been made, into silage; or

(b) a mixture consisting wholly of or containing such effluent, rain or water coming from a silo, silage effluent collection system or drain;

"silo" means any structure used for making or storing silage;

"slurry" means—

(a) excreta produced by livestock whilst in a yard or building;

(b) a mixture of such excreta with bedding, rainwater, seepage, washings or any other extraneous material from a building or yard used by livestock or in which livestock manure is stored; or

(c) any other organic manure or any combination of these, of a consistency that allows it to be pumped or discharged by gravity at any stage in the handling process and includes dirty water that is stored with slurry or mixed with slurry;

"slurry contractor" means a person who, in the course of a business, spreads slurry on an agricultural area and who is not claiming direct agricultural payments on that agricultural area;

"slurry storage system" means—

(a) a slurry storage tank;

(b) any reception pit and any effluent tank used in connection with the slurry tank; and

(c) any channels and pipes used in connection with the slurry storage tank, any reception pit or any effluent tank;

"slurry storage tank" includes a lagoon, pit (other than a reception pit) or tower used for the storage of slurry;

"soil phosphorus index" means the index number (0 to 4) assigned to the soil in accordance with Schedule 5 to indicate the amount of phosphorus available from the soil to the crop;

"steeply sloping land" means land which has an average incline of 20% or more in the case of grassland or 15% or more in the case of other land;

"total nitrogen" means the sum of all nitrogen forms including nitrate, ammonia and organic nitrogen;