STATUTORY RULES OF NORTHERN IRELAND

2011 No. 10

ENVIRONMENTAL PROTECTION

The Water Framework Directive (Priority Substances and Classification) Regulations (Northern Ireland) 2011

Made - - - -	*21st January 2011*
Coming into operation	*14th February 2011*

The Department of the Environment being a Department designated (**1**) for the purposes of section 2(2) of the European Communities Act 1972 (**2**) in relation to the Environment acting in exercise of the powers conferred upon it by that section and by Article 5 of the Water (Northern Ireland) Order 1999(**3**) makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Water Framework Directive (Priority Substances and Classification) Regulations (Northern Ireland) 2010 and shall come into operation on 14 February 2011.

Interpretation

2.—(1) In these Regulations—

"the 2003 Regulations" means the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003(**4**);

"biological boundary value" in respect of biological quality elements means the classification boundaries for ecological status as set out in Annex V of the Water Framework Directive;

"the Department" means the Department of the Environment;

"the Directive" means Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy(**5**);

"mixing zone" means an area designated in accordance with Article 4 of the Directive;

(**1**) S.I. 2008/301
(**2**) 1972 c.68
(**3**) 1999 (N.I. 6)
(**4**) S.R. 2003 No. 544
(**5**) O.J. No. L348, 16.12.2008, p.84

"river basin district" has the same meaning as in the 2003 Regulations and, for the purposes of these regulations, shall include "international river basin district" as also defined in the 2003 Regulations;

"river basin management plan" means a plan prepared in accordance with regulation 12 of the 2003 Regulations;

"the Water Framework Directive" means Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a Framework for Community Action in the Field of Water Policy, as amended (**6**)

(2) Words and expressions used in these Regulations which are also used in the Directive or in the Water Framework Directive shall have the same meaning as in those Directives.

(3) The Interpretation Act (Northern Ireland) 1954 (**7**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Typology and Environmental Standards

3.—(1) The Department, in exercising the functions listed in paragraph (2) shall in respect of rivers, lakes, transitional waters and coastal waters—

(a) assign a Type or Types in accordance with Part 1 of Schedule 1; and

(b) apply environmental standards and biological boundary values to each river, lake, transitional water and coastal water, or part thereof, according to its assigned Type or Types, as, in accordance with Part 2 and Part 3 of Schedule 1.

(2) The functions listed in paragraph (1) are—

(a) analysis and review of the characterisation of each river basin district in accordance with regulation 5(2) of the 2003 Regulations;

(b) monitoring of the status of the water environment in each river basin district in accordance with regulation 9 of the 2003 Regulations;

(c) setting of environmental objectives for each body of surface water in each river basin district in accordance with regulation 11(1)(a) of the 2003 Regulations; and

(d) preparing programmes of measures to achieve those objectives in accordance with regulation 11(1)(b) of the 2003 Regulations.

Environmental standards for priority substances and other dangerous substances

4.—(1) Subject to paragraph (2), the Department shall apply, the standards for priority substances and other dangerous substances in Table 38 and Table 39 of Part 2 of Schedule 1 to surface waters or parts thereof.

(2) The Department may apply the standards for sediment or for biota or for both sediment and biota to the standards in Table 38 of Part 2 of Schedule 1 in certain categories of surface water. If the Department applies this option:

(a) it shall apply any single standard or combination of standards from the following: for mercury and its compounds, a standard of 20 µg/kg, for hexachlorobenzene, a standard of 10 µg/kg, for hexachlorobutadiene, a standard of 55 µg/kg, these standards being for prey tissue (wet weight), choosing the most appropriate indicator from among fish, molluscs, crustaceans and other biota;

(**6**) O.J. No. L237, 22.12.2000, p.1; amended by Decision 2455/2001/EC of the European Parliament and of the Council of 20 November 2001establishing the list of priority substances in the field of water policy and amending Directive 2000/60/EC (O.J. No. L331, 15.12.2001, p.1)

(**7**) 1954 c.33 (N.I.)

(b) it shall ensure that the standards applied for sediment and biota offer at least the same level of protection as the standards for water set out in Table 38 of Part 2 of Schedule 1; and

(c) it shall monitor biota and sediment at least annually, unless technical knowledge and expert judgment justify a different interval.

Classification of surface waters

5.—(1) Subject to paragraph (2), the Department shall classify each body of surface water identified for the purposes of regulation 5 of the 2003 Regulations according to its ecological status, or its ecological potential as the case may be, and its chemical status.

(2) The Department shall classify—

(a) the ecological status of bodies of surface water in accordance with Part 1 of Schedule 2;

(b) the chemical status of bodies of surface water in accordance with Part 2 of Schedule 2;

(c) the ecological potential of heavily modified and artificial bodies of surface water in accordance with Part 3 of Schedule 2.

(3) The results of classification in accordance with paragraph (1) and paragraph (2) shall be reported within each river basin management plan as follows—

(a) a map for the relevant river basin district illustrating the classification of the ecological status for each body of surface water, colour-coded in accordance with Table 1 of Schedule 4;

(b) a map for the relevant river basin district illustrating the classification of the ecological potential of each body of surface water designated as artificial or heavily modified, colour-coded in accordance with Table 2 of Schedule 4;

(c) a black dot on the relevant map produced under sub-paragraphs (a) and (b) to indicate each body of surface water where failure to achieve good status or good ecological potential is due to non-compliance with one or more of the environmental quality standards that have been established for relevant specific pollutants;

(d) a map for the relevant river basin district illustrating the classification of chemical status for each body of surface water, colour-coded in accordance with Table 3 of Schedule 4.

(4) The overall status of bodies of surface water shall be determined in accordance with Part 5 of Schedule 2.

(5) The Department shall review the classification required by paragraph (1) at least once in every six years in accordance with the requirements of the Water Framework Directive.

Classification of Groundwater

6.—(1) The Department shall classify each body of groundwater identified for the purposes of regulation 5 of the 2003 Regulations according to its chemical status in accordance with regulation 9 of the Groundwater Regulations (Northern Ireland) 2009.(**8**)

(2) The Department shall classify each body of groundwater identified for the purposes of regulation 5 of the 2003 Regulations according to its quantitative status in accordance with Schedule 3.

(3) The results of classifications in accordance with paragraph (1) and paragraph (2) shall be reported within each river basin management plan as follows—

(**8**) S.R. 2009 No. 254

(a) a map for the relevant river basin district illustrating the classification of the chemical status for each body of groundwater, colour-coded in accordance with Table 4 of Schedule 4;

(b) a map for the relevant river basin district illustrating the classification of the quantitative status for each body of groundwater, colour-coded in accordance with Table 5 of Schedule 4.

(4) The Department shall review the classification required by paragraph (1) and paragraph (2) at least once in every six years in accordance with the requirements of the Water Framework Directive.

Designation of Mixing Zones

7.—(1) The Department may designate mixing zones adjacent to points of discharge.

(2) Concentrations of one or more substances listed in Table 38 of Part 2 of Schedule 1 may exceed the relevant standards within mixing zones if they do not affect the compliance of the rest of the body of surface water with those standards.

(3) The extent of any mixing zone shall be restricted to the proximity of the point of discharge and shall be proportionate, having regard to concentrations of pollutants at the point of discharge and any conditions contained within the discharge consent or permit.

(4) The Department shall include information about designated mixing zones in river basin management plans. This information shall include a description of:

(a) the approaches and methodologies applied to define mixing zones;

(b) measures taken with a view to reducing the extent of mixing zones in the future

Inventory of emissions, discharges and losses

8.—(1) The Department shall establish an inventory, including maps if available, by 31 December 2012 of emissions, discharges and losses of all substances listed in Table 38 of Part 2 of Schedule 1 for each river basin district or part of a river basin district including their concentrations in sediment and biota, as appropriate.

(2) The reference period for the estimation of pollutant values to be entered in the inventories referred to in paragraph 1 shall be one year between 2008 and 2010, with the exception of priority substances and pollutants covered by Directive 91/414/EEC(**9**), where the entries may be calculated as the average of the years 2008, 2009 and 2010.

(3) The Department shall communicate the inventories established in accordance with paragraph 1, including the respective reference periods, to the European Commission within three months of the date of their publication.

(4) The Department shall update the inventories as part of the review of the analyses specified in Article 5(2) of the Water Framework Directive, and shall publish the updated inventories in the corresponding river basin management plan.

(5) The reference period for the establishment of values in the inventories referred to in paragraph 4 shall be the year before that analysis is to be completed, with the exception of priority substances or pollutants covered by Directive 91/414/EEC, where the entries may be calculated as the average of the three years before the completion of that analysis.

(**9**) OJ No L 230 19.8.1991 concerning the placing of plant protection products on the market

Revocations

9. The Surface Waters (Dangerous Substances) (Classification) Regulations (Northern Ireland) 1998(**10**) are revoked.

Sealed with the Official Seal of the Department of the Environment on 21 January 2011.



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A senior officer of the Department of the Environment

(**10**) S.R. 1998 No. 397