STATUTORY RULES OF NORTHERN IRELAND

2009 No. 376

ENVIRONMENTAL PROTECTION

The Water Environment (Floods Directive) Regulations (Northern Ireland) 2009

Made - - - -	*20th November 2009*
Coming into operation	*14th December 2009*

The Department of Agriculture and Rural Development, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the environment, makes the following Regulations in exercise of the powers conferred by that section.

Citation and commencement

1.—(1) These Regulations may be cited as the Water Environment (Floods Directive) Regulations (Northern Ireland) 2009 and shall come into operation on 14th December 2009.

Interpretation

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

(2) In these Regulations—

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

"the Department" means the Department of Agriculture and Rural Development;

"flood" means the temporary covering by water from any source of land not normally covered by water, but does not include a flood solely from a sewerage system;

"the Floods Directive" means Directive 2007/60/EC of the European Parliament and of the Council on the assessment and management of flood risks(**5**);

"flood risk" means the combination of the probability of a flood and of the potential adverse consequences, associated with a flood, for human health, the environment, cultural heritage and economic activity;

(**1**) S.I. 2008/301
(**2**) 1972 c.68
(**3**) 1954 c.33 (N.I.)
(**4**) S.R. 2003 No. 544
(**5**) O.J. No. L288, 6.11.2007, p.27

"flood solely from a sewerage system" means the temporary covering of land by sewage caused solely by a failure or blockage of a sewerage system or which is not connected with any loading on the system by abnormal external hydraulic factors (for example by heavier than usual rainfall or higher than usual river levels);

"Implementation body" means—

(a) Waterways Ireland; or

(b) The Foyle, Carlingford and Irish Lights Commission;

"international river basin district" means an area identified under regulation 4(1) of the 2003 Regulations as an international river basin district for the purposes of those Regulations;

"Northern Ireland" has the meaning given by section 98(1) of the Northern Ireland Act 1998(**6**);

"public body" means—

(a) a Northern Ireland department;

(b) a department of the Government of the United Kingdom;

(c) a body established by or under a statutory provision;

(d) a statutory undertaker (within the meaning of the Planning (Northern Ireland) Order 1991(**7**)); or

(e) an implementation body;

"river basin district" means the area identified under regulation 4(1) of the 2003 Regulations as a river basin district for the purposes of those Regulations;

"statutory provision" has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954; and

"the Water Framework Directive" 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(**8**).

(3) Any other word or expression used both in these Regulations and in the Floods Directive or in the Water Framework Directive has the same meaning in these Regulations as it has in those Directives.

Competent authority

3. The Department is the competent authority for the purposes of the implementation of the Floods Directive.

General duties

4.—(1) A Northern Ireland department, each district council, each water undertaker, each sewerage undertaker, each implementation body and the Northern Ireland Fire and Rescue Service Board shall exercise their relevant functions in a manner which secures compliance with the requirements of the Floods Directive.

(2) In exercising its relevant functions, the Department shall ensure that the implementation of the requirements of the Floods Directive is co-ordinated between the bodies mentioned in paragraph (1).

(3) In this regulation "relevant functions" means functions under these Regulations and, so far as material—

(**6**) 1998 c.47
(**7**) S.I. 1991/1220 (N.I. 11)
(**8**) O.J. No. L327, 22.12.2000, p.1 as last amended by Directive 2009/31/EC of the European Parliament and of the Council (O.J. No. L140, 5.6.2009, p.114)

(a) in the case of a district council, under every statutory provision conferring functions on a district council;

(b) in any other case, under the statutory provisions listed in Schedule 1.

Preliminary flood risk assessments

5.—(1) The Department shall prepare a preliminary flood risk assessment for the river basin district and the part of each international river basin district lying within Northern Ireland.

(2) In the case of an international river basin district the Department shall ensure that relevant information is exchanged with the relevant competent authority in the Republic of Ireland, in connection with the preparation of a preliminary flood risk assessment under paragraph (1).

(3) A preliminary flood risk assessment shall be prepared by 22nd December 2011.

(4) A preliminary flood risk assessment—

(a) shall be prepared to provide an assessment of potential risks; and

(b) shall be based on available or readily derivable information such as records and studies on long term developments (including, in particular, information on any impact of climate change on the occurrence of floods).

(5) A preliminary flood risk assessment shall include the matters mentioned in Schedule 2.

(6) A preliminary flood risk assessment and any map included in it by virtue of paragraph 1 of Schedule 2, may also include such other information as the Department considers appropriate.

Preliminary flood risk assessments: review

6.—(1) The Department shall—

(a) by 22nd December 2018 review and, if necessary, update each preliminary flood risk assessment prepared under regulation 5; and

(b) by the end of the period of 6 years beginning with that date, and of each subsequent period of 6 years, review and, if necessary, update the latest preliminary flood risk assessment updated after review under this regulation.

(2) The Department shall take into account in any review under this regulation the likely impact of climate change on the occurrence of floods.

(3) Regulation 5(2) and (4) to (6) and Schedule 2 apply in relation to the review and updating of a preliminary flood risk assessment.

Preliminary flood risk assessments: availability for public inspection

7. The Department shall make available for public inspection copies of the preliminary flood risk assessment for the time being applicable for the river basin district or the part of each international river basin district lying within Northern Ireland.

Areas of significant flood risk

8.—(1) On the basis of a preliminary flood risk assessment but subject to paragraph (2), the Department shall—

(a) for the river basin district; and

(b) for the part of each international river basin district lying within Northern Ireland,

identify any area for which it concludes that potential significant flood risks exist or might be considered likely to occur.

(2) The identification under paragraph (1) of any area within a part of an international river basin district lying within Northern Ireland shall be co-ordinated with the relevant competent authority in the Republic of Ireland.

Area of significant flood risk: reviews

9.—(1) Where the Department updates a preliminary flood risk assessment for the river basin district or the part of any international river basin district lying within Northern Ireland under regulation 6(1), it shall review and, if necessary, update the identification of areas within that district or part for which it has concluded that potential significant flood risks exist or might be considered likely to occur.

(2) Regulation 8(2) applies in relation to a review and updating of an identification of areas under paragraph (1).

Preparation of flood hazard maps and flood risk maps

10.—(1) Subject to paragraph (3), the Department shall prepare, in relation to the river basin district and the part of each international river basin district lying within Northern Ireland, flood hazard maps and flood risk maps in accordance with this regulation and regulations 11 and 12.

(2) Flood hazard maps and flood risk maps shall be prepared—

(a) by 22nd December 2013;

(b) for the areas identified under regulation 8(1); and

(c) at such scale as the Department considers appropriate.

(3) In the case of an international river basin district the Department shall ensure that information is exchanged with the relevant competent authority in the Republic of Ireland before flood hazard maps and flood risk maps are prepared under paragraph (1).

Flood hazard maps

11.—(1) Subject to paragraphs (2) and (3), a flood hazard map (or more than one such map taken together) shall show—

(a) the geographical areas which could be flooded according to the following scenarios—

(i) floods with a low probability (or extreme event scenarios);

(ii) floods with a medium probability (likely return period of 100 years or more); and

(iii) floods with a high probability; and

(b) the following elements for each of those scenarios—

(i) the flood extent;

(ii) water depths or water level, whichever is appropriate; and

(iii) where appropriate, the flow velocity or the relevant water flow.

(2) But a flood hazard map need not show information referred to in paragraph (1) as respects a flood with a high probability where the Department considers such a flood would be unlikely to have significant adverse consequences for the area which could be flooded by it.

(3) The Department may decide that for a coastal area which, in its opinion, is adequately protected from coastal floods, the preparation of a flood hazard map (or more than one such map taken together) may be limited to the scenario referred to in paragraph (1)(a)(i).

Flood risk maps

12.—(1) The potential adverse consequences associated with each flood scenario for which any information referred to in regulation 11(1) is shown in a flood hazard map shall be shown in a flood risk map (or more than one flood risk map taken together) by reference to the matters mentioned in paragraph (2).

(2) The matters are—

(a) the indicative number of inhabitants who potentially could be affected;

(b) the type of economic activity in the area which could be flooded;

(c) installations referred to in Annex 1 to Directive 2008/1/EC of the European Parliament and of the Council concerning integrated pollution prevention and control(**9**), which might cause accidental pollution if any flood scenario referred to in paragraph (1) occurred;

(d) protected areas which potentially could be affected if any flood scenario referred to in paragraph (1) occurred;

(e) any area which is within a protected area and could be affected by pollution from any installation referred to in sub-paragraph (c); and

(f) such other information as the Department considers useful including the indication of areas where floods with a high content of transported sediments or debris floods can occur and information on other significant sources of pollution.

(3) In this regulation "protected area" has the meaning assigned to it by regulation 8(2) of the 2003 Regulations.

Flood hazard maps and flood risk maps: review

13.—(1) The Department shall—

(a) by 22nd December 2019 review and, if necessary, update each flood hazard map and each flood risk map prepared under regulation 10; and

(b) by the end of the period of 6 years beginning with that date, and of each subsequent period of 6 years, review and, if necessary, update the latest flood hazard map and flood risk map updated after review under this regulation.

(2) Regulations 10(2)(b) and (c) and (3), 11 and 12 apply in relation to the review and updating of a flood hazard map and a flood risk map.

Flood hazard maps and flood risk maps: availability for public inspection

14. The Department shall make available for public inspection copies of each flood hazard and each flood risk map for the time being applicable to the river basin district or the part of each international river basin district lying within Northern Ireland.

Flood hazard maps and flood risk maps: co-ordination with the 2003 Regulations

15.—(1) The development of the first flood hazard maps and flood risk maps and their subsequent reviews shall be—

(a) co-ordinated with, and may be integrated into, the reviews provided for by regulations 5(2) and 6(2) of the 2003 Regulations; and

(b) carried out in such a way that the information they contain is consistent with the information presented under the 2003 Regulations.

(**9**) O.J. No. L24, 29.1.2008, p.8 as amended by Directive 2009/31/EC of the European Parliament and of the Council (O.J. No. L140, 5.6.2009, p.114)