Commission Implementing Decision (EU) 2019/1325 of 27 May 2019 granting a derogation requested by the United Kingdom with regard to Northern Ireland pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources (notified under document C(2019) 3816) (Only the English text is authentic)

COMMISSION IMPLEMENTING DECISION (EU) 2019/1325

of 27 May 2019

granting a derogation requested by the United Kingdom with regard to Northern Ireland pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources

(notified under document C(2019) 3816)

(Only the English text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources[(1)], and in particular the third subparagraph of paragraph 2 of Annex III thereto,

Whereas:

(1) Commission Decision 2007/863/EC[(2)] granted a derogation requested by the United Kingdom with regard to Northern Ireland pursuant to Directive 91/676/EEC, allowing the application of livestock manure up to a limit of 250 kg nitrogen per hectare per year, under certain conditions, on farms in Northern Ireland with at least 80 % grassland.

(2) Commission Decision 2011/128/EU[(3)] extended that derogation until 31 December 2014 and Commission Implementing Decision (EU) 2015/346[(4)] granted a similar derogation until 31 December 2018.

(3) The derogation granted by Implementing Decision (EU) 2015/346 concerned 478 farms in 2018, corresponding to approximately 1,9 % of the total number of holdings and 4 % of the total net agricultural area in Northern Ireland.

(4) On 20 February 2019, the United Kingdom submitted to the Commission a request under the third subparagraph of paragraph 2 of Annex III to Directive 91/676/EEC for a derogation for the region of Northern Ireland.

(5) The United Kingdom, in conformity with Article 3(5) of Directive 91/676/EEC, applies an action programme throughout the whole territory of the region of Northern Ireland.

(6) The Report from the Commission to the Council and the European Parliament on the implementation of Directive 91/676/EEC for the period 2012-2015[(5)] shows that in the region of Northern Ireland, 98,2 % of monitoring stations have reported mean nitrate

concentrations in the groundwater below 25 mg/l and 1,2 % of monitoring stations have reported mean nitrate concentrations in the groundwater higher than 50 mg/l. For surface water, all monitoring stations have reported mean nitrate concentrations below 25 mg/l.

(7) The number of farms in Northern Ireland increased by 2 % while the total agricultural area did not change from the period 2008 to 2011 to the period 2012 to 2015. The number of cattle did not change, while the number of sheep, pigs and poultry increased by 2 %, 18 % and 14 %, respectively in the period 2012 to 2015 compared to 2008 to 2011. Average nitrogen loading from livestock manure in the period 2012-2015 was 98 kg/ha, with an increase of 1,2 % compared to 2008-2011. Phosphorus average surplus in the period 2012 to 2015 was 11,4 kg/ha, with a decline of 16 % compared to the period 2008 to 2011. Average chemical N fertiliser use increased by 4,1 % in the period 2012 to 2015 compared to 2008-2011. Average chemical P fertiliser use increased by 26 % in the period 2012-2015 compared to 2008 to 2011. However, the average use of chemical P fertiliser in the period 2012 to 2015 was still 40 % lower compared to the average use of that fertiliser in the period 2004 to 2007.

(8) In Northern Ireland, 93 % of agricultural land is devoted to grassland. Overall, in grassland farms, 42 % of the land area is farmed extensively and has a stocking rate of less than 1 livestock unit per hectare and low fertiliser inputs, 4 % is farmed under agri-environmental programmes and only 25 % is farmed more intensively, at a stocking rate of 2 livestock units per hectare or more. 4 % of agricultural land is used for arable agriculture. The average chemical fertiliser use on grassland is 76 kg/ha nitrogen and 5 kg/ha phosphorus.

(9) Northern Ireland is characterised by high rainfall and the prevalence of soil with poor drainage. Due to impeded drainage, the denitrification potential of the majority of soils in Northern Ireland is relatively high, reducing the nitrate concentration in soil and, therefore, the amount of nitrate susceptible to leaching.

(10) The Northern Irish climate, characterised by an even distribution of rainfall throughout the year and a relatively narrow annual temperature range promotes a relatively long grass-growing season ranging from 270 days per year in the coastal area to the east to around 260 days per year in the central lowlands.

(11) After examination of the request from the United Kingdom for the region of Northern Ireland in accordance with the third subparagraph of paragraph 2 of Annex III to Directive 91/676/EEC and in the light of the Nutrients Action Programme Regulations (Northern Ireland) 2019[(6)] and the experience gained from the derogations provided for in Decision 2007/863/EC and Implementing Decision (EU) 2015/346, the Commission considers that the application of an amount of grazing livestock manure proposed by the United Kingdom for the region of Northern Ireland, corresponding to 250 kg nitrogen will not prejudice the achievement of the objectives of Directive 91/676/EEC if the conditions set out in this Decision are met.

(12) The supporting information presented by the United Kingdom shows that the proposed amount of 250 kg nitrogen per hectare per year from livestock manure on farms with at

least 80 % grassland is justified on the basis of objective criteria such as long growing seasons and crops with high nitrogen uptake.

(13) Implementing Decision (EU) 2015/346 expired on 31 December 2018. To ensure that the farmers concerned can benefit from the requested derogation, it is therefore necessary to adopt this Decision.

(14) Directive 2007/2/EC of the European Parliament and of the Council[(7)] lays down general rules aimed at the establishment of the Infrastructure for Spatial Information in the Union for the purposes of environmental policies of the Union and policies or activities of the Union which may have an impact on the environment. Where applicable, the spatial information collected in the context of this Decision should be in line with the provisions set out in that Directive. In order to reduce the administrative burden and enhance data coherence, the United Kingdom, when collecting the necessary data under this Decision should, where appropriate, make use of the information generated under the Integrated Administration and Control System established pursuant to Chapter II of Title V of Regulation (EU) No 1306/2013 of the European Parliament and of the Council[(8)].

(15) The measures provided for in this Decision are in accordance with the opinion of the Nitrates Committee set up pursuant to Article 9 of Directive 91/676/EEC,

HAS ADOPTED THIS DECISION:

Article 1

Derogation

The derogation requested by the United Kingdom with regard to Northern Ireland by letter of 19 February 2019, for the purpose of allowing application to the land of a higher amount of nitrogen from livestock manure than that provided for in the first sentence of the second subparagraph of paragraph 2 of Annex III to Directive 91/676/EEC, is granted, subject to the conditions laid down in Article 4 to 10.

Article 2

Scope

The derogation granted pursuant to Article 1 shall apply to grassland farms for which an authorisation has been granted in accordance with Article 5.

Article 3

Definitions

For the purposes of this Decision, the following definitions shall apply:

(a) ‘grass’ means permanent grassland or temporary grassland;

(b) ‘grassland farms’ means holdings where 80 % or more of the agricultural acreage available for manure application is grass;

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

(d) 'parcel' means an individual field or a group of fields, homogeneous regarding cropping, soil type and fertilisation practices;

(e) 'fertilisation plan' means an advance calculation about the planned use and availability of nutrients;

(f) 'fertilisation account' means the nutrient balance based on the real use and uptake of nutrients.

Article 4

Applications for authorisation

1 Grassland farmers may submit an application for an annual authorisation to apply livestock manure containing up to 250 kg nitrogen per hectare per year to the competent authorities. The application shall contain a declaration stating that the grassland farmer submits to all the controls provided for in Article 9.

2 In the annual application referred to in paragraph 1, the applicant shall undertake in writing to fulfil the conditions laid down in Articles 6 and 7.

Article 5

The granting of authorisations

Authorisations to apply an amount of livestock manure containing up to 250 kg nitrogen per hectare per year shall be granted subject to the conditions laid down in Articles 6 to 7.

Article 6

Conditions regarding application of manure and other fertilisers

1 The amount of livestock manure from grazing livestock applied to the land each year on grassland farms, including by the animals themselves, shall not exceed the amount of manure containing 250 kg nitrogen per hectare, subject to the conditions laid down in paragraphs 2 to 8.

2 The total nitrogen inputs shall neither exceed the foreseeable nutrient demand of the crop nor the maximum fertilisation rate applicable to the grassland farm, established in the Nutrients Action Programme Regulations (Northern Ireland) 2019 and shall take into account the supply from the soil.

3 A fertilisation plan shall be prepared and kept for each grassland farm. The fertilisation plan shall describe the crop rotation of the farmland and the planned application of manure and other fertilisers. The fertilisation plan shall include at least the following:

a the crop rotation plan specifying the following:
   — the acreage of parcels with grass;
   — the acreage of parcels with crops other than grass;
   — a sketch map indicating the location of individual parcels;

b the number of livestock on the grassland farm;

c a description of the housing and manure storage system, including the volume of manure storage available;

d a calculation of manure nitrogen and phosphorus produced on the grassland farm;

e the amount, type and characteristics of manure delivered outside the grassland farm or to the grassland farm;

f the foreseeable nitrogen and phosphorus crop requirements for each parcel;

g results of soil analysis related to nitrogen and phosphorus soil status if available;

h the nature of the fertiliser to be used;

i a calculation of nitrogen and phosphorus application from manure for each parcel;

j a calculation of nitrogen and phosphorus application from chemical and other fertilisers for each parcel.

The fertilisation plan shall be available at the grassland farm for each calendar year by 1 March of that year. It shall be revised no later than seven days following any change in agricultural practices at the grassland farm.

4 Fertilisation accounts, including information related to the management of nitrogen and phosphorus inputs and the management of soiled water, shall be prepared and kept for each grassland farm. They shall be submitted to the competent authority for each calendar year by 31 March of the following calendar year.

5 Periodic sampling and analyses of the soil with respect to nitrogen and phosphorus shall be performed by each grassland farm.

Sampling and analysis shall be carried out at least once every four years for each homogeneous area of the grassland farm, with regard to crop rotation and soil characteristics.

At least one analysis per five hectares of farmland shall be carried out.

The results of the nitrogen and phosphorus analysis in the soil shall be available at the grassland farm.

6 Livestock manure shall not be spread in the autumn before grass cultivation.

7 For each grassland farm, the farmer shall ensure that the phosphorus balance, calculated according to the methodology established by the Nutrients Action Programme Regulations (Northern Ireland) 2019, does not exceed a surplus of 10 kg phosphorus per hectare per year.

8 At least 50 % of slurry produced on the holding shall be applied by 15 June of each year. Low emission slurry spreading equipment shall be used for any slurry applications after 15 June of each year.

Article 7

Conditions regarding land management

1 Temporary grassland shall be ploughed in spring.

2 Ploughed grass on all soil types shall be followed immediately by a crop with high nitrogen demand.