
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 376

WATER

**The Designation of Nitrate Vulnerable
Zones (Scotland) Regulations 2015**

Made - - - - 3rd November 2015
*Laid before the Scottish
Parliament* - - - - 5th November 2015
Coming into force - - 1st January 2016

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(1) and all other powers enabling them to do so.

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2015 and come into force on 1st January 2016.

(2) These Regulations extend to Scotland only.

(3) In these Regulations—

- (a) any reference to a numbered Article is to the Article so numbered in Council [Directive 91/676/EEC](#) concerning the protection of waters against pollution caused by nitrates from agricultural sources(2); and
- (b) “the 2008 Regulations” means the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008(3).

Nitrate vulnerable zones

2.—(1) The areas of land shown delineated in blue on the deposited maps (being areas of land in Scotland which drain into and contribute to pollution of the waters which the Scottish Ministers have identified, in accordance with Article 3(1), as waters affected by pollution and waters which

(1) [1972 c.68](#). Section 2(2) was amended by the Scotland Act [1998 \(c.46\)](#) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act [2006 \(c.51\)](#) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act [2008 \(c.7\)](#), Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(2) OJ L 375, 31.12.1991, p.1, as amended by Regulation (EC) [1882/2003](#) (OJ L 284, 31.10.2003, p.1) and Regulation (EC) [1137/2008](#) (OJ L 311, 21.11.2008, p.1).

(3) [S.S.I. 2008/298](#), as relevantly amended by [S.S.I. 2013/123](#) and [S.S.I. 2014/373](#).

could be affected by pollution if action pursuant to Article 5 were not taken) are designated as nitrate vulnerable zones in accordance with Article 3(4).

(2) In paragraph (1), “the deposited maps” means the maps numbered 1 to 5, each of which is marked “This map identifies an area of Scotland designated as a Nitrate Vulnerable Zone for the purposes of the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2015” and signed as relative to these Regulations.

Publication of maps

3. The Scottish Ministers must make at least one copy of each of the maps referred to in regulation 2 available for public inspection at the offices of the Scottish Government, Victoria Quay, Edinburgh EH6 6QQ.

Transitional provision as regards the application of regulations 6(1), 7(1) and 20 of the 2008 Regulations

4.—(1) This regulation applies to any area of land designated under regulation 2(1) which has not previously been designated for the purposes of Article 3(4) before 1st January 2016(4).

(2) In any area to which this regulation applies, the 2008 Regulations apply subject to the following qualifications:—

- (a) regulations 6(1) (storage of livestock manure and silage effluent) (insofar as it applies to the storage of slurry) and 7(1) (storage of slurry from housed pigs and housed cattle and manure from housed poultry) of the 2008 Regulations do not apply where the storage capacity on a farm on 1st January 2016 is not sufficient to allow compliance with those provisions; and
- (b) regulation 20 (closed periods for organic manure with high available nitrogen content) of the 2008 Regulations does not apply where slurry collected on a farm can only be applied to land on the farm in contravention of that provision because—
 - (i) the storage capacity on the farm on 1st January 2016 is not sufficient to allow compliance with that provision; and
 - (ii) it is not reasonably practicable for the slurry to be removed from the farm.

(3) Paragraph (2)(a) applies until—

- (a) the storage capacity is sufficient to allow compliance with regulations 6(1) (insofar as it applies to the storage of slurry) and 7(1); or
- (b) 1st January 2018,

whichever occurs earlier.

(4) Paragraph (2)(b) applies until—

- (a) the storage capacity is sufficient to allow compliance with regulation 20 without the need for slurry to be removed from the farm; or
- (b) 1st January 2018,

whichever occurs earlier.

(5) Any qualification under paragraph (2) applies—

- (a) in respect of the period from 1st January 2016 to 31st December 2016, only if written notice is given to the Scottish Ministers as soon as practicable after 1st January 2016 and in any case no later than 31st March 2016; and

(4) Nitrate vulnerable zones were previously designated for the purposes of Article 3(4) by S.I. 1996/1564, S.S.I. 2000/96, S.S.I. 2002/276, S.S.I. 2002/546 and S.S.I. 2014/373.

- (b) in respect of the period from 1st January 2017 to 31st December 2017, only if written notice is given to the Scottish Ministers no later than 1st January 2017.
- (6) Any notice under paragraph (5) must set out—
 - (a) whether a qualification under paragraph (2)(a) or (b) (or under both sub-paragraphs) applies;
 - (b) in the case of a qualification under paragraph (2)(a), any action being taken towards making the storage capacity on the farm comply with regulations 6(1) (insofar as it applies to the storage of slurry) and 7(1); and
 - (c) in the case of a qualification under paragraph (2)(b), the ways in which existing storage will be utilised to achieve compliance with regulation 20 so far as possible during the exemption period.
- (7) In this regulation, “farm” and “slurry” have the same meaning as in the 2008 Regulations.

Consequential amendments

5.—(1) In regulation 2(1) (interpretation) of the Protection of Water Against Agricultural Nitrate Pollution (Scotland) Regulations 1996⁽⁵⁾, for the definition of “nitrate vulnerable zone” substitute—

““nitrate vulnerable zone” means any area of land designated as a nitrate vulnerable zone by regulation 2 of the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2015;”.

(2) In regulation 3(1) (interpretation) of the 2008 Regulations, for the definition of “nitrate vulnerable zone” substitute—

““nitrate vulnerable zone” means any area of land designated as a nitrate vulnerable zone by regulation 2 of the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2015;”.

Revocation

- 6.** The Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2014⁽⁶⁾ are revoked.

St Andrew’s House, Edinburgh
3rd November 2015

RICHARD LOCHHEAD
A member of the Scottish Government

⁽⁵⁾ S.I. 1996/1564, as relevantly amended by S.S.I. 2014/373.

⁽⁶⁾ S.S.I. 2014/373.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further implement in Scotland the requirements of Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources (“the Directive”).

Under Article 3(1) of the Directive, Member States are required to identify waters affected by pollution and waters which could be affected by pollution in accordance with the criteria set out in Annex 1 to the Directive. They are then to designate as vulnerable zones all known areas of land in their territories which drain into these waters and which contribute to pollution (Article 3(2)). The designation of vulnerable zones is to be reviewed at least every 4 years, and if necessary revised or added to as appropriate (Article 3(4)).

Regulation 2 of these Regulations designates the revised vulnerable zones in accordance with Article 3(4) of the Directive. There are five such zones, located in the following areas: Lower Nithsdale; Edinburgh, East Lothian and Borders; Strathmore, Fife and Angus; Aberdeenshire, Banff, Buchan and Moray; and Stanraer Lowlands.

Regulation 3 requires that copies of the maps which identify the vulnerable zones are available for public inspection at the offices of the Scottish Government, Victoria Quay, Edinburgh EH6 6QQ. The maps may also be viewed on the Scottish Government website at <http://www.scotland.gov.uk/Topics/farmingrural/Agriculture/Environment/NVZintro>.

Regulation 4 makes provision as regards the application of the Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2008 to areas of land designated as nitrate vulnerable zones for the first time.

Consequential amendments to other legislation are made by regulation 5, and the Regulations designating earlier vulnerable zones are revoked by regulation 6.

No business and regulatory impact assessment has been prepared for these Regulations as no impact on business, charities or voluntary bodies is foreseen.