

2016 No. 139

WATER RESOURCES, ENGLAND

WATER RESOURCES, SCOTLAND

**The Water Environment (Water Framework Directive)
(Northumbria and Solway Tweed River Basin Districts)
(Amendment) Regulations 2016**

<i>Made</i> - - - -	<i>8th February 2016</i>
<i>Laid before Parliament</i>	<i>10th February 2016</i>
<i>Coming into force</i> - -	<i>3rd March 2016</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a).

The Secretary of State is a Minister designated for the purposes of that provision in relation to the environment(b).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Water Environment (Water Framework Directive) (Northumbria and Solway Tweed River Basin Districts) (Amendment) Regulations 2016.

(2) These Regulations come into force on 3rd March 2016 immediately after the commencement of the Water Environment (Water Framework Directive) (England and Wales) (Amendment) Regulations 2016(c).

(3) These Regulations extend to Great Britain.

Amendments to the Northumbria Regulations

2. The Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003 (“the Northumbria Regulations”)(d) are amended in accordance with Schedule 1.

(a) 1972 c. 68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1)(a), and the European Union (Amendment) Act 2008 (c. 7), Part 1 of the Schedule. Under section 57(1) of the Scotland Act 1998 (c.46), despite the transfer to the Scottish Ministers of functions in relation to implementing obligations under EU law in respect of devolved matters, the function of the Secretary of State in relation to implementing those obligations continues to be exercisable as regards Scotland.

(b) S.I. 2008/301.

(c) S.I. 2016/138.

(d) S.I. 2003/3245.

Amendments to the Solway Tweed Regulations

3. The Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 (“the Solway Tweed Regulations”)(a) are amended in accordance with Schedule 2.

Rory Stewart

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

8th February 2016

SCHEDULE 1

Regulation 2

Amendments to the Northumbria Regulations

1. In regulation 2 (interpretation)—

(a) for the definition of “the Directive” substitute—

““the 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(b);”;

(b) in the appropriate places insert—

““the Agency” means the Environment Agency;”;

““the EQS Directive” means Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy(c);”;

““the Groundwater Directive” means Directive 2006/118/EC of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration(d);”.

2. For regulation 3 (river basin districts) substitute—

“3.—(1) The area shown on the official map is identified as a river basin district for the purposes of these Regulations and shall be known as the Northumbria River Basin District.

(2) The Agency must ensure that the official map is published on its website and made available to the public at its principal office.

(3) The Scottish Environment Protection Agency must ensure that the official map is published on its website and made available to the public at its principal office.

(4) In this regulation—

(a) “the official map” means the map of the Northumbria River Basin District produced by the Agency;

(b) “river basin district” means a district which is the main unit for the management of river basins for the purposes of the Directive, being made up of neighbouring river basins together with associated groundwater, transitional waters and coastal water.”.

3. In regulation 4 (the general duties)—

(a) in paragraph (1)—

(a) S.I. 2004/99; relevant amending instruments are 2013/1675 and S.S.I. 2011/228.

(b) OJ No L 327, 22.12.2000, p 1, as last amended by Commission Directive 2014/101/EU (OJ No L 311, 31.10.2014, p 32). The effect of section 20A of the Interpretation Act 1978 (c.30) is that the reference to Directive 2000/60/EC in the Northumbria Regulations are references to that Directive as last amended by Commission Directive 2014/101/EU.

(c) OJ No L 348, 24.12.2008, p 84, as last amended by Directive 2013/39/EU (OJ No L 226, 24.8.2013, p 1).

(d) OJ No L 372, 27.12.2006, p 19, as amended by Commission Directive 2014/80/EU (OJ No L 182, 21.6.2014, p 52).

- (i) in sub-paragraph (a), for “for the achievement of its” substitute “and of the EQS Directive for the achievement of the”;
- (ii) in sub-paragraph (b), after “Directive” insert “, the EQS Directive and the Groundwater Directive”;
- (b) in paragraph (2)—
 - (i) in sub-paragraph (a), after “(waters used for the abstraction of drinking water)” insert “, and to comply with the EQS Directive”;
 - (ii) in sub-paragraph (b), for “(programme of measures)” substitute “, Article 3(1a) of the EQS Directive and Articles 5(2) and 6(1) of the Groundwater Directive”.

4. In regulation 5 (application of the provisions of the principal Regulations to the Northumbria River Basin District)—

- (a) for paragraphs (1) and (2) substitute—
 - “(1) Subject to the modifications in paragraphs (2) to (5), the provisions of the principal Regulations^(a) set out in paragraph (1A) apply to the Northumbria River Basin District as they apply to river basin districts identified by regulation 4(1) of the principal Regulations.
 - (1A) The provisions of the principal Regulations referred to in paragraph (1) are—
 - (a) regulations 2, 5 to 18, 19 and 20, in relation to the whole of the Northumbria River Basin District;
 - (b) regulation 18A, only in relation to the part of the Northumbria River Basin District which is in England.
 - (2) Regulation 2 (interpretation) shall have effect as if—
 - (a) in paragraph (1), the definitions of “the appropriate authority”, “the appropriate agency” and “the NRBW” were omitted; and
 - (b) paragraphs (1A) and (1B) were omitted.
 - (2A) The principal Regulations shall have effect as if, for each reference to “the appropriate agency”, there were substituted a reference to “the Agency”.
 - (2B) The principal Regulations shall have effect as if, for each reference to “the appropriate authority”, there were substituted a reference to “the Secretary of State”.
 - (2C) Regulation 7A (designation of shellfish waters) shall have effect as if paragraph (7) were omitted.”;
- (b) in paragraph (3)—
 - (i) in the modification made by sub-paragraph (a) to regulation 12(2), omit “and at the principal office for its East Region”;
 - (ii) in the modification made by sub-paragraph (c)(iii) to regulation 12(4), for “Commissioners” substitute “Commission”;
 - (iii) in the modification made by sub-paragraph (d) to regulation 12(5)—
 - (aa) in sub-paragraph (a) as modified, for “English Nature” substitute “Natural England”;
 - (bb) for sub-paragraph (c) as modified, substitute—
 - “(c) “the River Tweed Commission” means the body constituted in accordance with article 5 of the Scotland Act 1998 (River Tweed) Order 2006^(b)”;
 - (c) in the modification made by paragraph (4) to regulation 13(1), omit “and at the principal office for its East Region”;

(a) S.I. 2003/3242, amended by S.I. 2005/20352011/603, 2011/1043, 2013/755, 2015/1623; there are other amending instruments but none are relevant.

(b) S.I. 2006/2913, to which there are amendments not relevant to these Regulations.

(d) in the modification made by paragraph (5) to regulation 14(3), omit “and at the principal office for its East Region”;

(e) after paragraph (5) insert—

“(6) Regulation 17 (duty to have regard to plans) shall have effect as if “the Welsh Ministers,” and “, the NRBW” were omitted.”.

5. In regulation 6 (application of Part 1 of the Scottish Act to the Northumbria River Basin District), omit paragraph (6).

Amendments to the Solway Tweed Regulations

1. In regulation 2(1) (interpretation)—

(a) for the definition of “the Directive” substitute—

““the 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;”;

(b) for the definition of “environmental objectives” substitute—

““environmental objectives” means—

(a) the objectives required to comply with Article 4 of the Directive (environmental objectives) including any objectives required to comply with Article 7(2) and (3) of the Directive (waters used for the abstraction of drinking water) and the EQS Directive; and

(b) in relation to a shellfish water protected area within the Solway Tweed River Basin District, without prejudice to the objectives under paragraph (a), the water quality objectives necessary or desirable to improve or protect that shellfish water protected area in order to support shellfish life and growth and to contribute to the high quality of shellfish products suitable for human consumption;”;

(c) in the appropriate places insert—

““the EQS Directive” means Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water policy;”;

““existing obligations” means the obligations (on environmental quality standards in the field of water policy) under the EQS Directive before it was amended by Directive 2013/39/EU of the European Parliament and of the Council(a) including, in particular, the achievement of good surface water chemical status in relation to the substances and the associated environmental quality standards listed in the EQS Directive before it was so amended;”;

““the Groundwater Directive” means Directive 2006/118/EC of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration;”;

““shellfish” means crustaceans and molluscs of any kind, and includes any brood, ware, half-ware, spat or spawn of shellfish;”;

““shellfish water objectives” means the objectives in paragraph (b) of the definition of environmental objectives;”;

““shellfish water protected area” means—

(a) in relation to an area of water in England, an area of water designated under regulation 3A;

(b) in relation to an area of water in Scotland, an area of water designated under section 5A of the Scottish Act(b);”;

““the table of priority substances” means the table in Part A of Annex I to the EQS Directive;”;

(d) in the definition of “programme of measures”, for “(programme of measures)” substitute “, Article 3(1a) of the EQS Directive, and Articles 5(2) and 6(1) of the Groundwater Directive”.

(a) OJ No L 226, 24.8.2013, p 1.

(b) 2003 asp. 3; section 5A was inserted by the Aquaculture and Fisheries (Scotland) Act 2013 (2013 asp 7), section 54(2).

2. For regulation 3 (the Solway Tweed River Basin District) substitute—

“3.—(1) The area shown on the official map is identified as a river basin district for the purposes of these Regulations and shall be known as the Solway Tweed River Basin District.

(2) The Agency must ensure that the official map is published on its website and made available to the public at its principal office.

(3) SEPA must ensure that the official map is published on its website and made available to the public at its principal office.

(4) In this regulation—

(a) “the official map” means the map of the Solway Tweed River Basin District contained in the river basin management plan for the District published by the Ministers under paragraph 7(4) of Schedule 1;

(b) “river basin district” means a district which is the main unit for the management of river basins for the purposes of the Directive, being made up of neighbouring river basins together with associated groundwater, transitional waters and coastal water.”.

3. In regulation 4 (the general duties)—

(a) in paragraph (a), for “for the achievement of its” substitute “and of the EQS Directive for the achievement of the”;

(b) in paragraph (b), after “Directive” insert “, the EQS Directive and the Groundwater Directive”.

4. In regulation 5(2) (application of Part 1 of the Scottish Act), after “enables” insert “orders made under section 5A or”.

5. Schedule 1 (river basin management planning) is amended in accordance with paragraphs 6 to 15.

6. After paragraph 3 insert—

“Designation of shellfish water protected areas: England

3A.—(1) Subject to paragraph (3), the Secretary of State may designate an area of coastal or transitional water which is in the Solway Tweed River Basin District and which is wholly in England as a shellfish water protected area by including it in the relevant list.

(2) The relevant list for the purposes of sub-paragraph (1) is the list entitled “Shellfish Waters (Solway Tweed) (England) 2016” dated 8th February 2016.

(3) An area of coastal or transitional water may not be included in the relevant list unless the Secretary of State considers that to do so is necessary or desirable to protect or develop economically significant shellfish production.

(4) The Secretary of State may from time to time review each designation made under sub-paragraph (1).

(5) The first review under this paragraph must be completed by 22nd December 2021 and afterwards reviews must be completed at intervals not exceeding 6 years.

(6) The Agency must ensure that the relevant list is published on its website and made available to the public at its principal offices.”.

7. In paragraph 4(2) (definition of “protected area”)—

(a) at the end of paragraph (a) omit “and”;

(b) after paragraph (a) insert—

“(aa) a shellfish water protected area;”.

8. In paragraph 5 (monitoring)—

(a) in sub-paragraph (1)(b), after “Directive” insert “, the EQS Directive and the Groundwater Directive”;

(b) after sub-paragraph (4) insert—

“(5) The Agencies must maintain, in relation to each shellfish water protected area, a monitoring programme for the purposes of enabling a reliable assessment of whether the shellfish water objectives have been or will be achieved.

(6) By 22nd December 2018, the Agencies must establish, for the Solway Tweed River Basin District, a monitoring programme in respect of substances 34 to 45 in the table of priority substances.”.

9. In paragraph 6 (environmental objectives and programmes of measures), after sub-paragraph (5) insert—

“(6) Without prejudice to the existing obligations, the Ministers must ensure that a programme of measures updated under sub-paragraph (5)(a)(iii) includes measures with the aim of achieving good surface water chemical status by 22nd December 2021 in relation to substances 2, 5, 15, 20, 22, 23 and 28 in the table of priority substances.”.

10. After paragraph 6 insert—

“Further programmes of measures in relation to certain priority substances

6A.—(1) The Agencies must, by 22nd December 2018, establish a preliminary programme of measures for the Solway Tweed River Basin District in relation to substances 34 to 45 in the table of priority substances.

(2) For the purposes of the programme of measures to be updated under paragraph 6(5)(a)(iii) by 22nd December 2021, the Agencies must, by such date as the Ministers direct, prepare and submit to the Ministers proposals for a final programme of measures, with the aim of achieving good surface water chemical status in relation to substances 34 to 45 in the table of priority substances by 22nd December 2027 and preventing deterioration in the chemical status of each body of surface water in relation to those substances.

(3) Paragraph 6(2) applies to the preparation by the Agencies of its proposals under sub-paragraph (2) as it does to proposals under paragraph 6(1).

(4) Without prejudice to the existing obligations, the Ministers must ensure that, for the Solway Tweed River Basin District, the programme of measures updated under paragraph 6(5)(a)(iii) by 22nd December 2021 contains measures with the aim of achieving good surface water chemical status in relation to substances 34 to 45 in the table of priority substances by 22nd December 2027 and preventing deterioration in the chemical status of each body of surface water in relation to those substances.

(5) Paragraph 6(3) and (4) apply in relation to proposals for a programme of measures submitted to the Ministers under sub-paragraph (2) as they do to proposals submitted under paragraph 6(1).

(6) The Ministers must ensure that the measures referred to in sub-paragraph (4) are made operational as soon as possible after 22nd December 2021, and at the latest by 22nd December 2024.”.

11. In paragraph 7 (river basin management plans)—

(a) in sub-paragraph (2)—

(i) after paragraph (a) omit “and”;

(ii) in paragraph (b), after “Directive” insert “, the EQS Directive and the Groundwater Directive; and”;

(iii) after paragraph (b) insert—

“(c) include, in relation to any shellfish water protected area, equivalent information relating to the shellfish water objectives as is required by paragraph 7(3)(d) to be

included for the environmental objectives falling within paragraph (a) of the definition of environmental objectives”;

(b) after sub-paragraph (3) insert—

“(3A) The relevant provisions of the EQS Directive for the purposes of this paragraph are—

- (a) Article 3(5) (information about monitoring and analysis, including alternative matrices);
- (b) Article 4(2) (information relating to mixing zones); and
- (c) Article 5(4) (updated inventories).

(3B) The relevant provisions of the Groundwater Directive for the purposes of this paragraph are—

- (a) Article 3(5) (information on threshold values);
- (b) Article 4(4) (information on the assessment of groundwater chemical status); and
- (c) Article 5(4) and (5) and Part C of Annex II (information on trend assessments).”.

12. In paragraph 8 (river basin management plan: public participation)—

(a) in sub-paragraph (4)(h), for “Commissioners” substitute “Commission”;

(b) after sub-paragraph (4)(n) insert—

“(na) in relation to any shellfish water protected area in the Solway Tweed River Basin District in England, the Food Standards Agency;

(nb) in relation to any shellfish water protected area in the Solway Tweed River Basin District in Scotland, Food Standards Scotland;”;

(c) for sub-paragraph (5)(i) substitute—

“(i) “the River Tweed Commission” means the body constituted in accordance with article 5 of the Scotland Act 1998 (River Tweed) Order 2006.”.

13. In paragraph 11 (river basin management plan: review), for paragraph (4) substitute—

“(4) The revised plan must include (in addition to the matters required to be included by paragraph 7(2)(b) and (3))—

- (a) the information specified in Part B of Annex VII to the Directive (additional information for inclusion in updated river basin management plans);
- (b) in relation to any shellfish water protected area, equivalent information relating to the shellfish water objectives as is specified by Part B of Annex VII to the Directive to be included for the objectives referred to in paragraph (a) of the definition of environmental objectives.”.

14. In paragraph 14 (publication of information), after sub-paragraph (3) insert—

“(4) The Ministers must ensure that an interim report describing progress in the implementation of the planned programme of measures required to be produced under Article 15(3) of the Directive is made available via a central portal which is accessible to the public electronically in accordance with Article 7(1) of Directive 2003/4/EC of the European Parliament and of the Council on public access to environmental information(a).”

15. After paragraph 14 insert—

(a) OJ No L 41, 14.2.2003, p 26.

“Coordination

14A.—(1) This paragraph applies where the results of a report under Article 7a of the EQS Directive show that additional measures at European Union or member State level may be necessary in order to facilitate compliance with the Directive in relation to a particular substance approved pursuant to Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market(a) or Regulation (EU) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products(b).

(2) In relation to such part of the Solway Tweed River Basin District as is in England, the Secretary of State must apply Article 44 of Regulation (EC) No 1107/2009 or Article 48 of Regulation (EU) No 528/2012, as appropriate, to the relevant substances referred to in sub-paragraph (1), or products containing that substance.

(3) In applying the provisions referred to in sub-paragraph (2), the Secretary of State must take into account any risk evaluations and socio-economic or cost-benefit analyses required under Regulation (EC) No 1107/2009 or Regulation (EU) No 528/2012, including as regards the availability of alternatives.”.

16. In Schedule 2 (relevant functions)—

(a) in Part 1 (statutes)—

(i) after paragraph 6 insert—

“**6A.** The Land Drainage Act 1991(c).”;

(ii) after paragraph 7A insert—

“**8.** The Flood and Water Management Act 2010(d).”;

(b) for the paragraphs of Part 2 (subordinate instruments), substitute—

“**9.** The Sludge (Use in Agriculture) Regulations 1989(e).

10. The Urban Waste Water Treatment (England and Wales) Regulations 1994(f).

11. The Water Resources (Environmental Impact Assessment) (England and Wales) Regulations 2003(g).

12. The Urban Waste Water Treatment (England and Wales) (Amendment) Regulations 2003(h).

13. The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010(i).

14. The Environmental Permitting (England and Wales) Regulations 2010(j).

15. The Bathing Water Regulations 2013(k).

16. The Keeping and Introduction of Fish (England and River Esk Catchment Area) Regulations 2015(l).

(a) OJ No L 309, 24.11.2009, p 1 as last amended by Regulation (EU) No 652/2014 (OJ No L 189, 27.6.2014, p 1).

(b) OJ No L 167, 27.6.2012, p 1, as last amended by Regulation (EU) No 334/2014 (OJ No L 103, 5.4.2014, p 22).

(c) 1991 c.59.

(d) 2010 c.29.

(e) S.I. 1989/1263, to which there are amendments not relevant to these Regulations.

(f) S.I. 1994/2841, to which there are amendments not relevant to these Regulations.

(g) S.I. 2003/164, to which there are amendments not relevant to these Regulations.

(h) S.I. 2003/1788.

(i) S.I. 2010/639, to which there are amendments not relevant to these Regulations.

(j) S.I. 2010/675, to which there are amendments not relevant to these Regulations.

(k) S.I. 2013/1675, to which there are amendments not relevant to these Regulations.

(l) S.I. 2015/10.

17. The Nitrate Pollution Prevention Regulations 2015(a).

18. The Environmental Damage (Prevention and Remediation) (England) Regulations 2015(b).”.

17. In Schedule 3 (Directive definitions), after “ecological status” insert—

““Good surface water chemical status” means the chemical status required to meet the environmental objectives for surface waters established in Article 4(1)(a), that is the chemical status achieved by a body of surface water in which concentrations of pollutants do not exceed the environmental quality standards established in Annex IX and under Article 16(7), and under other relevant EU legislation setting environmental quality standards at EU level.”.

18. In Schedule 4 (modification of the Scottish Act)—

(a) in paragraph 2, for “4” substitute “4, 5, 6”;

(b) after paragraph 2 insert—

“**2A.** Section 5A (shellfish water protected areas) shall have effect as if the reference to Part 1 (protection of the water environment) included a reference to that Part as applied by regulation 5.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003 (S.I. 2003/3245) and the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 (“the Solway Tweed Regulations”) (S.I. 2004/99).

The amendments transpose aspects of Directive 2013/39/EU of the European Parliament and of the Council which concerns priority substances in the field of water policy (OJ No L 226, 24.8.2013, p 1).

The Regulations also amend the Solway Tweed Regulations to make provision about shellfish water protected areas. This provision is being made due to the repeal of Directive 2006/113/EC of the European Parliament and of the Council on the quality required of shellfish waters (OJ No L 376, 27.12.2006, p 14), so that protections under that Directive are continued. (Similar provision is made for England and Wales in a separate instrument, including the area to which the Northumbria Regulations apply.) The amendments ensure that any necessary environmental objectives required to improve or protect the water quality of a shellfish water protected area to support shellfish life and growth are set, that monitoring in relation to such objectives takes place in those areas, and that information about them is included in the river basin management plan.

The Regulations make other minor amendments, including updating Schedule 2 to the Solway Tweed Regulations which contains a list of relevant enactments to which the “general duties” of the Secretary of State and the Environment Agency in regulation 4 of those Regulations apply.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

(a) S.I. 2015/668.

(b) S.I. 2015/810, to which there are amendments not relevant to these Regulations.