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STATUTORY INSTRUMENTS

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**2019 No. 558**

**EXITING THE EUROPEAN UNION  
AGRICULTURE, ENGLAND  
COAST PROTECTION, ENGLAND  
COMPANIES, ENGLAND AND WALES  
ENVIRONMENTAL PROTECTION, ENGLAND  
FLOOD RISK MANAGEMENT, ENGLAND  
INSOLVENCY, ENGLAND AND WALES  
INSURANCE  
PUBLIC HEALTH, ENGLAND AND WALES  
WATER  
WATER INDUSTRY, ENGLAND AND WALES  
WATER RESOURCES**

The Floods and Water (Amendment  
etc.) (EU Exit) Regulations 2019

*Made - - - - 20th March 2019*

*Coming into force in accordance with regulation 1(1)*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 8(1) of and paragraph 21(b) of Schedule 7 to the European Union (Withdrawal) Act 2018<sup>(1)</sup>.

A draft of this instrument has been laid before and approved by a resolution of each House of Parliament pursuant to paragraph 1(1) of Schedule 7 to that Act.

## PART 1

### Introductory

#### Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Floods and Water (Amendment etc.) (EU Exit) Regulations 2019 and come into force on exit day.

(2) Subject to paragraph (3), an amendment or revocation made by Parts 2 to 4 has the same extent and application as the provision amended or revoked.

(3) Regulation 6 does not apply in relation to Scotland.

## PART 2

### Amendment of primary legislation

#### Water Act 1989

2. In section 174(2)(k) of the Water Act 1989(2), for “an EU obligation” substitute “a retained EU obligation”.

#### Water Industry Act 1991

3.—(1) The Water Industry Act 1991(3) is amended as follows.

(2) In section 2(7)(4), for “EU obligation” substitute “retained EU obligation”.

(3) In section 92(5)—

(a) in the heading, at the end insert “etc.”;

(b) in subsection (1)—

(i) in the words before paragraph (a) omit “enabling Her Majesty’s Government in the United Kingdom to give effect”;

(ii) for paragraph (a) substitute—

“(a) giving effect to any retained EU obligations, or”;

(iii) at the beginning of paragraph (b) insert “enabling Her Majesty’s Government in the United Kingdom to give effect”.

(4) In section 127(3)(a)(6), for the words from “enabling” to “obligation or” substitute “giving effect to any retained EU obligation or enabling Her Majesty’s Government in the United Kingdom to give effect”.

(5) In section 131(3)(a)(7), for the words from “enabling” to “obligation or” substitute “giving effect to any retained EU obligation or enabling Her Majesty’s Government in the United Kingdom to give effect”.

(6) In section 206(3)(k)(8), for “an EU obligation” substitute “a retained EU obligation”.

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(2) 1989 c. 15; section 174(2)(k) was amended by S.I. 2011/1043.

(3) 1991 c. 56.

(4) Section 2(7) was inserted by section 39(9) of the Water Act 2003 (c. 37) and amended by section 24(2) of the Water Act 2014 (c. 21) and by S.I. 2011/1043.

(5) Section 92(1)(a) was amended by S.I. 2011/1043.

(6) Section 127(3)(a) was amended by S.I. 2011/1043.

(7) Section 131(3)(a) was amended by S.I. 2011/1043.

(8) Section 206(3)(k) was amended by S.I. 2011/1043.

## Water Resources Act 1991

- 4.—(1) The Water Resources Act 1991<sup>(9)</sup> is amended as follows.
- (2) In section 93<sup>(10)</sup>—
- (a) in subsection (1B), for the words from “enabling” to “in relation to” substitute “achievement of”;
  - (b) omit subsection (2C);
  - (c) in subsection (7), at the appropriate places insert the following definitions—
    - ““environmental objectives”—
    - (a) in relation to the Solway Tweed River Basin District, means the objectives as defined in regulation 2 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004 (S.I. 2004/99);
    - (b) in relation to the Northumbria River Basin District, means the objectives referred to in the WFD Regulations as applied and modified by regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003 (S.I. 2003/3245);
    - (c) in relation to any other river basin district, within the meaning of the WFD Regulations, has the same meaning as in those regulations;”;
    - ““hydromorphological quality element” has the same meaning as in the Water Framework Directive;”;
    - ““the WFD Regulations” means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (S.I. 2017/407).”.
- (3) In section 102<sup>(11)</sup>—
- (a) in the heading, at the end insert “etc.”;
  - (b) in the words before paragraph (a), omit “enabling Her Majesty’s Government in the United Kingdom to give effect”;
  - (c) for paragraph (a) substitute—
    - “(a) giving effect to any retained EU obligations, or”;
  - (d) at the beginning of paragraph (b) insert “enabling Her Majesty’s Government in the United Kingdom to give effect”.
- (4) In section 116<sup>(12)</sup>—
- (a) in the heading, at the end insert “etc.”;
  - (b) in subsection (1)—
    - (i) in the words before paragraph (a), omit “enabling Her Majesty’s Government in the United Kingdom to give effect”;
    - (ii) for paragraph (a) substitute—
      - “(a) giving effect to any retained EU obligations, or”;
    - (iii) at the beginning of paragraph (b) insert “enabling Her Majesty’s Government in the United Kingdom to give effect”.

<sup>(9)</sup> 1991 c. 57.

<sup>(10)</sup> Section 93 was amended by S.I. 2009/3104, 2013/755 (W. 90) and 2018/942.

<sup>(11)</sup> Section 102(a) was amended by S.I. 2011/1043.

<sup>(12)</sup> Section 116(1)(a) was amended by paragraph 22 of Schedule 16 to the Marine and Coastal Access Act 2009 (c. 23) and by S.I. 2011/1043 and 2013/755 (W. 90). Article 4 of S.I. 1999/1746 disapplied section 116 in relation to part of the River Esk.

- (5) In each of sections 161ZA(13) and 161ZB(14) omit subsection (3).
- (6) In section 161ZC(15)—
  - (a) in subsection (8), omit the words from “and in sections” to the end;
  - (b) after subsection (8) insert—
    - “(9) In sections 161ZA and 161ZB, “environmental objectives”, “hydromorphological quality element” and “Water Framework Directive” have the meanings given by section 93(7) of this Act.”.
- (7) In section 204(2)(k)(16), for “an EU obligation” substitute “a retained EU obligation”.

### **Water Act 2014**

- 5. In paragraph 5(b) of Schedule 8 to the Water Act 2014(17), for the words from “obligations” to “treaties” substitute “retained EU obligations”.

## **PART 3**

### **Amendment of secondary legislation**

#### **The Sludge (Use in Agriculture) Regulations 1989**

- 6. After regulation 11 of the Sludge (Use in Agriculture) Regulations 1989(18), insert—

#### **“Reporting**

12.—(1) The appropriate authority must prepare and publish a report on the implementation of these Regulations.

(2) A report under paragraph (1) must be published in such manner as the appropriate authority considers appropriate.

(3) The first report under this regulation must be published by 31st December 2019.

(4) Subsequent reports under this regulation must be published at intervals not exceeding three years.

(5) In this regulation, the “appropriate authority” means—

- (a) in relation to England, the Secretary of State;
- (b) in relation to Wales, the Welsh Ministers.”.

#### **The Urban Waste Water Treatment (England and Wales) Regulations 1994**

7.—(1) The Urban Waste Water Treatment (England and Wales) Regulations 1994(19) are amended as follows.

- (2) In regulation 5—
  - (a) in paragraph (1)(a)—

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(13) Section 161ZA(3) was inserted by [S.I. 2009/3104](#) and amended by [S.I. 2013/755 \(W. 90\)](#).

(14) Section 161ZB(3) was inserted by [S.I. 2009/3104](#) and amended by [S.I. 2013/755 \(W. 90\)](#).

(15) Section 161ZC(8) was inserted by [S.I. 2009/3104](#).

(16) Section 204(2)(k) was amended by [S.I. 2011/1043](#).

(17) [2014 c. 21](#).

(18) [S.I. 1989/1263](#) was amended by [S.I. 2010/1820](#); there are other amending instruments but none is relevant.

(19) [S.I. 1994/2841](#); relevant amending instruments are [S.I. 2013/755 \(W. 90\)](#), [2018/942](#).

- (i) for “such” substitute “a”;
  - (ii) omit the words from “as” to “Directive”;
  - (b) in paragraph (5), omit the words from “and with” to “Directive”;
  - (c) in paragraph (6), omit the words from “for the purpose” to the end;
  - (d) in paragraph (8)(a), for “the Directive and other Community Directives” substitute “retained EU law”.
- (3) After regulation 12 insert—

### “Reporting

**12A.**—(1) The appropriate authority must prepare and publish a situation report on the disposal of urban waste water and sludge.

(2) The appropriate authority must review and assess compliance with these Regulations in each agglomeration and prepare and publish a report on—

- (a) the level of that compliance;
- (b) identified reasons for non-compliance where applicable;
- (c) proposed measures to achieve compliance with these Regulations.

(3) A report under paragraph (1) and (2) must be published in such manner as the appropriate authority considers appropriate.

(4) The first reports under paragraphs (1) and (2) must be published by 31st December 2020.

(5) Subsequent reports must be published at intervals not exceeding two years.

(6) In this regulation, the “appropriate authority” means—

- (a) in relation to England, the Secretary of State;
- (b) in relation to Wales, the Welsh Ministers.”.

(4) In regulation 13—

(a) in the words before paragraph (a)—

- (i) for “the following obligations” substitute “the obligations of the Secretary of State and the Welsh Ministers under regulation 12A to publish a report”;
- (ii) after “the Secretary of State” insert “and the Welsh Ministers”;

(b) omit paragraphs (a) and (b).

(5) In Part 1 of Schedule 1, in paragraph (c), for “Council Directives” substitute “retained EU law”.

(6) In Part 1 of Schedule 3, in paragraph 4, for “any other relevant Community Directives” substitute “retained EU law”.

(7) In Schedule 4, for “other Community Directives” substitute “retained EU law”.

### **The Water Supply (Water Fittings) Regulations 1999**

**8.**—(1) The Water Supply (Water Fittings) Regulations 1999<sup>(20)</sup> are amended as follows.

(2) In regulation 1(2), omit the definitions of “EEA Agreement” and “EEA State”.

(3) In regulation 4—

- (a) omit paragraph (2)(a);

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<sup>(20)</sup> S.I. 1999/1148; relevant amending instruments are S.I. 2013/1387, 2018/942.

- (b) in paragraph (2)(c), omit “of an EEA State”;
- (c) in paragraph (6)(a)—
  - (i) omit the words from “, a European” to “paragraph (2)(a)”;
  - (ii) omit “of an EEA State”.

### **The Drinking Water (Undertakings) (England and Wales) Regulations 2000**

9. In regulation 2 of the Drinking Water (Undertakings) (England and Wales) Regulations 2000<sup>(21)</sup>, for “implements” substitute “implemented”.

### **The Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003**

10.—(1) The Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003<sup>(22)</sup> are amended as follows.

- (2) In regulation 4, for paragraph (2) substitute—
  - “(2) In this regulation—
    - (a) “environmental objectives” means the objectives set under regulation 12, in accordance with regulation 13, of the principal Regulations (as applied by regulation 5 of these Regulations);
    - (b) “programme of measures” means the programme of measures established under regulation 12, in accordance with regulation 20, of the principal Regulations (as applied by regulation 5 of these Regulations);
    - (c) references to the Directive, the EQS Directive and the Groundwater Directive are to be read in accordance with Schedule 5 (modification of directives) to the principal Regulations<sup>(23)</sup>.”
- (3) In regulation 5—
  - (a) in paragraph (1A)—
    - (i) in sub-paragraph (a), for “Schedules 1 and 3” substitute “Schedules 1, 3 and 5”;
    - (ii) omit sub-paragraph (b);
  - (b) after paragraph (6) insert—
    - “(7) Schedule 5 (modification of directives) has effect as if, in each of paragraphs 2(a), 18(a) and 26(a), for “England or Wales” there were substituted “the Northumbria River Basin District”.”

### **The Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004**

11.—(1) The Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004<sup>(24)</sup> are amended as follows.

- (2) In regulation 2, after paragraph (2) insert—
  - “(3) For the purposes of these Regulations, references to the Directive, the EQS Directive and the Groundwater Directive, or to any provision of them, are to be read in accordance with Schedule 5.”

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<sup>(21)</sup> S.I. 2000/1297; relevant amending instruments are S.I. 2010/996, 2018/942.

<sup>(22)</sup> S.I. 2003/3245, amended by S.I. 2016/139, 2017/407.

<sup>(23)</sup> Regulation 20 of these Regulations inserts Schedule 5 into the principal Regulations.

<sup>(24)</sup> S.I. 2004/99; relevant amending instruments are S.I. 2011/1043, 2016/139, 2018/942.

- (3) In Schedule 1—
- (a) in paragraph 4(2)(b)—
    - (i) for “any EU instrument” substitute “retained EU law”;
    - (ii) omit “, or any enactment implementing such an EU instrument”;
  - (b) in paragraph 5(4)(b), for “1.4 to 1.4.3” substitute “1.4.1 (excluding points (iv) to (ix)), 1.4.2 and 1.4.3”;
  - (c) in paragraph 7, after sub-paragraph (3B) insert—

“(3C) Where a provision referred to in sub-paragraphs (3) to (3B) refers to Article 13 of the Directive, that reference is to be read as a reference to Article 13 except in so far as it gives rise to any obligation under Article 15 of the Directive.”;
  - (d) in paragraph 14, for sub-paragraph (4) substitute—

“(4) The Ministers must ensure that, no more than three years after publication of an updated river basin management plan under paragraph 11—

    - (a) an interim report is produced describing progress in the implementation of the planned programme of measures;
    - (b) the report is published in such manner as the Ministers consider appropriate.”;
  - (e) omit paragraph 14A;
  - (f) in paragraph 16—
    - (i) in sub-paragraph (1), after “giving effect to” insert “these Regulations or any other retained EU law which transposed”;
    - (ii) in sub-paragraph (2), after “practical implementation of” insert “these Regulations or any other retained EU law which transposed”.
- (4) In Schedule 2, omit paragraph 1.
- (5) In Schedule 3, in the definition of “Good surface water chemical status”, for the words from “in Annex IX” to the end substitute “by the table of priority substances, and under relevant retained EU law which sets environmental quality standards”.
- (6) After Schedule 4 insert—

“SCHEDULE 5

Regulation 2(3)

Modification of directives

PART 1

Modifications of the Water Framework Directive

1. A reference to the Directive, or to any provision of it, is to be read in accordance with this Part.
2. When interpreting the Directive for the purposes of these Regulations—
  - (a) a reference to one or more member States in a provision imposing an obligation, or conferring a discretion, on a member State or member States is to be read as a reference to the relevant authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation, or able to exercise that discretion, in respect of the Solway Tweed River Basin District;
  - (b) in sub-paragraph (a), “relevant authority” means—
    - (i) the Ministers;

- (ii) the Agencies;
  - (iii) any other public body with functions under these Regulations;
  - (c) a reference to Article 13 of the Directive is to be read as a reference to Article 13 except in so far as it gives rise to any obligation under Article 15 of the Directive;
  - (d) any reference to Community legislation (other than a reference to existing Community legislation) is to be read as if it were a reference to retained EU law;
  - (e) any reference to existing Community legislation or existing legislation is to be read as if it were a reference to Community legislation which was in force prior to 23rd October 2000;
  - (f) the Directive is to be read as if the following modifications were made to it.
3. Article 2(24) is to be read as if, for the words from “in Annex IX” to the end, there were substituted “by the table of priority substances, and under relevant retained EU law which sets environmental quality standards”.
4. Article 4 is to be read as if—
- (a) in paragraph 1—
    - (i) in point (a)(iv), for “Article 16(1) and (8)” there were substituted “the EQS Directive”;
    - (ii) in point (b)(iii), for “paragraphs 2, 4 and 5 of Article 17” there were substituted “the Groundwater Directive”;
  - (b) in paragraph 8, the reference to other Community environmental legislation were a reference to retained EU law relating to the environment.
5. Article 7(2) is to be read as if—
- (a) for “at Community level under Article 16” there were substituted “by retained EU law which implemented the EQS Directive”;
  - (b) for “[Directive 80/778/EEC](#) as amended by [Directive 98/83/EC](#)” there were substituted “retained EU law which implemented [Directive 98/83/EC](#) on the quality of water intended for human consumption<sup>(25)</sup>”.
6. Article 10 is to be ignored.
7. Article 11(3) is to be read as if—
- (a) in subparagraph (a), for the words from “to implement” to the end, there were substituted “under retained EU law for the protection of water”;
  - (b) in subparagraph (j), in the fourth indent, for the words from “[Directive 2009/31/EC](#)” to the end there were substituted “Chapter 3 of Part 1 of the Energy Act 2008<sup>(26)</sup> and other retained EU law which transposed [Directive 2009/31/EC](#) on the geological storage of carbon dioxide<sup>(27)</sup>”;
  - (c) in subparagraph (k)—
    - (i) the words “in accordance with action taken pursuant to Article 16,” were omitted;
    - (ii) for “agreed pursuant to Article 16(2)” there were substituted “in Annex 10”.
8. Article 12 is to be ignored.
9. Article 15 is to be ignored.

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(25) OJ No L 350, 5.12.1998, p 32, as last amended by Commission Directive (EU) 2015/1787 (OJ No L 260, 7.10.2015, p 6).

(26) 2008 c. 32. Chapter 3 was amended by paragraph 5 of Schedule 4 to the Marine and Coastal Access Act 2009 (c. 23), section 107 of the Energy Act 2011 (c. 16), Schedules 1 and 2 to the Energy Act 2016 (c. 20), S.I. 2011/2453, 2015/664, 2017/524 and S.S.I. 2011/224.

(27) OJ No L 140, 5.6.2009, p 114, as last amended by Decision 2018/853/EU (OJ No L 150, 14.6.2018, p 155).



10. Article 24 is to be ignored.
11. Annex 1 is to be ignored.
12. Annex 2 is to be read as if—
- (a) in section 1.1, paragraph (vi) were omitted;
  - (b) in section 1.4—
    - (i) in the second paragraph—
      - (aa) after “gathered under” there were inserted “the retained EU law which implemented”;
      - (bb) in sub-paragraph (ii), the reference to information gathered under Articles 9 and 15 of [Directive 96/61/EC](#) were a reference to relevant information gathered under the retained EU law which transposed Articles 5(3), 14 and 24 of [Directive 2010/75/EC](#) on industrial emissions<sup>(28)</sup>;
    - (ii) in the third paragraph—
      - (aa) after “gathered under” there were inserted “the retained EU law which implemented”;
      - (bb) in sub-paragraph (iii), the reference to [Directive 98/8/EC](#) were a reference to Regulation (EC) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products.
13. Annex 4 is to be read as if—
- (a) in paragraph 1—
    - (i) in subparagraph (iii), for “[Directive 76/160/EEC](#)” there were substituted “retained EU law which transposed [Directive 2006/7/EC](#) concerning the management of bathing water quality<sup>(29)</sup>”;
    - (ii) in subparagraph (iv), after “under” (in both places it occurs) there were inserted “retained EU law which transposed”;
    - (iii) in subparagraph (v), for “[Directive 79/409/EEC](#)” there were substituted “retained EU law which transposed [Directive 2009/147/EC](#) on the conservation of wild birds<sup>(30)</sup>”;
  - (b) in paragraph 2, the words “Community, local or national” were omitted.
14. Annex 5 is to be read as if—
- (a) references in tables 1.2.1 to 1.2.5 to [Directive 91/414/EC](#), in each place they occur, were references to Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market;
  - (b) references in tables 1.2.1 to 1.2.5 to [Directive 98/8/EC](#), in each place they occur, were references to Regulation (EC) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products;
  - (c) in section 1.3.1, in the paragraph headed “Selection of monitoring points”, the fourth indent (referring to “the Information Exchange [Decision 77/795/EEC](#)”) were omitted;
  - (d) in section 1.3.5, the reference to the Drinking Water Directive were a reference to retained EU law which transposed [Directive 98/83/EC](#) on the quality of water intended for human consumption;

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(28) OJ No L 334, 17.12.2010, p 17, as last corrected by a corrigendum (OJ No L 158, 19.6.2012, p 25).

(29) OJ No L 64, 4.3.2006, p 37, as last amended by Council [Directive 2013/64/EU](#) (OJ No L 353, 28.12.2013, p 8).

(30) OJ No L 20, 26.1.2010, p 7, as last amended by Council [Directive 2013/17/EU](#) (OJ No L 158, 10.6.2013, p 193).

- (e) in section 1.4.1—
    - (i) in point (iii), for the words from “shall be established” to the end there were substituted “is as set out in Commission Decision 2018/229 establishing, pursuant to [Directive 2000/60/EC](#) of the European Parliament and of the Council, the values of the Member State monitoring system classifications as a result of the intercalibration exercise”;
    - (ii) points (iv) to (ix) were omitted;
  - (f) in section 1.4.3, for the words “Annex IX, Article 16 and under other relevant Community legislation” there were substituted “Annex 1 to the EQS Directive and under relevant retained EU law”;
  - (g) in the table in section 2.3.2, in the column for “good status”, for “other relevant Community legislation in accordance with Article 17” there were substituted “the Groundwater Directive”;
  - (h) in section 2.4.5, the words “Without prejudice to the Directives concerned,” were omitted.
- 15.** Annex 6 is to be read as if Part A were omitted.
- 16.** Annex 7 is to be read as if, in Part A—
- (a) in point 7.1, for “to implement Community legislation” there were substituted “under retained EU law”;
  - (b) point 10 were omitted.

## PART 2

### Modifications of the Groundwater Directive

- 17.** A reference to the Groundwater Directive, or to any provision of it, is to be read in accordance with this Part.
- 18.** When interpreting the Groundwater Directive for the purposes of these Regulations—
- (a) a reference to one or more member States in a provision imposing an obligation, or conferring a discretion, on a member State or member States is to be read as a reference to the relevant authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation, or able to exercise that discretion, in respect of the Solway Tweed River Basin District;
  - (b) in sub-paragraph (a), “relevant authority” means—
    - (i) the Ministers;
    - (ii) the Agencies;
    - (iii) any other public body with functions under these Regulations;
  - (c) any reference to Community legislation is to be read as if it were a reference to retained EU law;
  - (d) the Groundwater Directive is to be read as if the following modifications were made to it.
- 19.** Article 3 is to be read as if—
- (a) paragraphs 3 and 4 were omitted;
  - (b) in paragraph 5, for “submitted” there were substituted “produced”.
- 20.** Article 5 is to be read as if, in each of paragraphs 4 and 5, for “submitted” there were substituted “produced”.

21. Article 6(4) is to be read as if the words after “paragraph 3” were omitted.
22. Article 12 is to be ignored.
23. Annex 1 is to be read as if—
  - (a) in footnote 1 to the table in point 1, for “Article 2 of [Directive 91/414/EEC](#) and in Article 2 of [Directive 98/8/EC](#)” there were substituted “Article 2 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and Article 3 of Regulation (EC) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products”;
  - (b) in point 2, for “[Directive 91/414/EEC](#) or [Directive 98/8/EC](#)” there were substituted “Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market or Regulation (EC) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products”.
24. Annex 2 is to be read as if, in Part C—
  - (a) for “submitted” there were substituted “produced”;
  - (b) in point (c)(iii), for “at national, Union or” there were substituted “in retained EU law or other national legislation, or at”.

## PART 3

### Modifications of the Environmental Quality Standards Directive

25. A reference to the EQS Directive, or to any provision of it, is to be read in accordance with this Part.
26. When interpreting the EQS Directive for the purposes of these Regulations—
  - (a) a reference to one or more member States in a provision imposing an obligation, or conferring a discretion, on a member State or member States is to be read as a reference to the relevant authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation, or able to exercise that discretion, in respect of the Solway Tweed River Basin District;
  - (b) in sub-paragraph (a), “relevant authority” means—
    - (i) the Ministers;
    - (ii) the Agencies;
    - (iii) any other public body with functions under these Regulations;
  - (c) the EQS Directive is to be read as if the following modifications were made to it.
27. Article 3 is to be read as if—
  - (a) each reference to a provision of Commission [Directive 2009/90/EC](#) laying down, pursuant to [Directive 2000/60/EC](#) of the European Parliament and of the Council, technical specifications for chemical analysis and monitoring of water status were modified in accordance with paragraph 26(a);
  - (b) paragraph 5a were omitted.
28. Article 4 is to be read as if—
  - (a) in paragraph 2(b), the words from “, such as” to the end were omitted;
  - (b) in paragraph 3(b), the reference to Community law were a reference to retained EU law.

29. Article 5 is to be read as if—

- (a) references to [Directive 91/414/EEC](#) were references to Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market;
- (b) paragraph 3 were omitted.

30. The following Articles are to be ignored—

- (a) Article 6(1)(c) and (2);
- (b) Article 7a;
- (c) in Article 8a(1), the final sentence of the second subparagraph;
- (d) Article 8b(4);
- (e) Article 8c;
- (f) Article 13.”.

#### **The Water Industry (Special Administration) Rules 2009**

12. In rule 123 of the Water Industry (Special Administration) Rules 2009(31), omit paragraph (2).

#### **The Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010**

13. In regulation 2(3) of the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010(32), omit the words from “and is recognised” to the end.

#### **The Incidental Flooding and Coastal Erosion (England) Order 2011**

14. In article 3 of the Incidental Flooding and Coastal Erosion (England) Order 2011(33)—

- (a) in paragraph (3), for the words from “the United Kingdom” to “under” substitute “compliance with the retained EU law which implemented”;
- (b) for paragraph (4)(a) substitute—
  - “(a) “environmental objectives”—
    - (i) in relation to the Solway Tweed River Basin District, means the objectives as defined in regulation 2 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004;
    - (ii) in relation to the Northumbria River Basin District, means the objectives referred to in the WFD Regulations as applied and modified by regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003;
    - (iii) in relation to any other river basin district, within the meaning of the WFD Regulations, has the same meaning as in those Regulations;”;
- (c) after paragraph (4)(d) insert—

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(31) [S.I. 2009/2477](#), to which there are amendments not relevant to these Regulations.

(32) [S.I. 2010/639](#), to which there are amendments not relevant to these Regulations.

(33) [S.I. 2011/2855](#), relevant amending instruments are [S.I. 2013/755 \(W.90\)](#), [2018/575](#).

- “(e) “the WFD Regulations” means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017(34).”.

### **The Bathing Water Regulations 2013**

**15.**—(1) The Bathing Water Regulations 2013(35) are amended as follows.

(2) In regulation 2, at the end insert—

“(4) For the purposes of these Regulations, a reference to an EU Directive is to be read as if any reference in that Directive to one or more member States in a provision imposing an obligation on, or conferring a discretion on, a member State or member States were a reference to the appropriate Minister, appropriate agency or local authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation, or able to exercise that discretion, in respect of England or Wales.”.

(3) In regulation 3(7), for “giving effect to the Bathing Water Directive” substitute “these Regulations”.

(4) In regulation 5—

(a) in paragraph (1)(c), for “requirements” substitute “provisions”;

(b) at the end insert—

“(4) For the purposes of this regulation, the Bathing Water Directive is to be read as if—

(a) in Article 2(13), the reference to Council [Directive 85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment were a reference to Council [Directive 2011/92/EU](#) on the assessment of the effects of certain public and private projects on the environment(36);

(b) the following provisions were omitted—

(i) Article 3(8);

(ii) in Article 3(9), the final sentence;

(iii) in Article 4(2), in the second subparagraph, the second and third sentences;

(c) in Article 6(3), the reference to Council [Directive 2000/60/EC](#) were a reference to Article 8 of that Directive;

(d) the following provisions were omitted—

(i) Article 13;

(ii) Article 14;

(iii) Article 18;

(e) in Annex 3, in paragraph 1(a), the reference to Council [Directive 2000/60/EC](#) were omitted.

(5) For the purposes of paragraph (4)(c), Article 8 of Council [Directive 2000/60/EC](#) is to be read as if—

(a) in paragraph 1, in the final indent, the reference to Community legislation were a reference to retained EU law;

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(34) [S.I. 2017/407](#), amended by [S.I. 2018/942](#).

(35) [S.I. 2013/1675](#), relevant amending instruments are [S.I. 2017/407](#), [2018/575](#).

(36) OJ No L 26, 28.1.2012, p 1, as last amended by [Directive 2014/52/EU](#) (OJ No L 124, 25.4.2014, p 1).

- (b) in paragraph 2, the reference in the second sentence to Annex 5 to Council Directive 2000/60/EC were a reference to that Annex as modified by Part 1 of Schedule 5 to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017(37).”.

(5) In Part 6, before regulation 16 insert—

**“Annual reports**

**15A.**—(1) Subject to paragraph (2), the appropriate Minister must prepare and publish, by 30th April each calendar year, a report on the bathing water season in the previous year.

(2) The first report under this regulation must be published by 30th April 2020.

(3) A report must—

(a) be published in such manner as the appropriate Minister considers appropriate;

(b) contain the following information for a bathing water—

(i) the results of monitoring carried out under regulation 8;

(ii) the reasons for any suspension of the monitoring calendar notified by the appropriate agency under regulation 8(6);

(iii) the results of bathing water quality assessments carried out under regulation 10;

(iv) a description of any significant management measures taken.”.

(6) In regulation 16(6), for “giving effect to the Bathing Water Directive” substitute “these Regulations”.

(7) In regulation 17, for “the Bathing Water Directive” substitute “these Regulations”.

**The Nitrate Pollution Prevention Regulations 2015**

**16.**—(1) The Nitrate Pollution Prevention Regulations 2015(38) are amended as follows.

(2) In regulation 2, at the end insert—

“(4) For the purposes of these Regulations, a reference to an EU Directive is to be read as if any reference in that Directive to one or more member States in a provision imposing an obligation on, or conferring a discretion on, a member State or member States were a reference to the authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation, or able to exercise that discretion, in respect of England.

(5) In paragraph (4), the “authority” means the Agency or the Secretary of State.”.

(3) In regulation 4—

(a) in paragraph (2)(b), for “Council Directive 98/83/EC” substitute “the Water Supply (Water Quality) Regulations 2016(39) and the Private Water Supplies (England) Regulations 2016(40)”;

(b) at the end insert—

“(7) For the purposes of paragraph (5)(a), the reference to Annex 1 to Council Directive 91/676/EEC(41) is to be read as if—

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(37) Regulation 20 of these Regulations inserts Schedule 5 into the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.

(38) S.I. 2015/668, relevant amending instruments are S.I. 2016/1154, 2016/1190, 2018/575.

(39) S.I. 2016/614, amended by S.I. 2017/506, 2018/378, 2018/706.

(40) S.I. 2016/618, amended by S.I. 2017/506, 2018/707.

(41) OJ No L 375, 31.12.1991, p 1, as last amended by Regulation (EC) No 1137/2008 (OJ No L 311, 21.11.2008, p 1).

- (a) each reference in it to Article 5 of that Directive were to regulations 7 to 35 of these Regulations;
  - (b) in point A(1), for the words from “more than” to “[Directive 75/440/EEC](#)” there were substituted “a concentration of nitrates greater than 50 mg/l”.
- (4) In regulation 36—
  - (a) after paragraph (2) insert—

“(2A) For the purposes of paragraph (2), paragraph 2(b) of Annex 3 to Council [Directive 91/676/EEC](#) is to be read as if the third subparagraph were omitted.”;
  - (b) at the end insert—

“(7) As part of the review conducted under regulation 39, the Secretary of State must review the overall position of derogations granted under this regulation against—

    - (a) objective criteria, including—
      - (i) the existence, in designated nitrate vulnerable zones, of long growing seasons, crops with high nitrogen uptake, and soils with exceptionally high denitrification capacity;
      - (ii) the net rainfall in designated nitrate vulnerable zones;
    - (b) the following objectives—
      - (i) reducing water pollution caused or induced by nitrates from agricultural sources;
      - (ii) preventing further such pollution.”.
- (5) In the heading of regulation 39, at the end insert “of the action programme”.
- (6) After regulation 40, insert—

**“Implementation report**

- 40A.**—(1) The Secretary of State must prepare a report on the implementation of these Regulations for each relevant period.
- (2) A report under paragraph (1) must contain—
    - (a) details of any steps taken to promote good agricultural practice;
    - (b) the map published under regulation 3(2), accompanied by a statement detailing the nature of, and reasons for, any revisions to the designated nitrate vulnerable zone since the end of the previous reporting period;
    - (c) a summary of the monitoring results obtained by the Agency under regulation 4;
    - (d) a summary of the most recent review conducted under regulation 39.
  - (3) A report under paragraph (1) must be published—
    - (a) in such manner as the Secretary of State considers appropriate;
    - (b) by the last day of the six month period beginning with the day on which the relevant period ends.
  - (4) In this regulation, “relevant period” means the period of four years beginning with 1st January 2016 and each successive period of four years.”.

### **The Flood Reinsurance (Scheme Funding and Administration) Regulations 2015**

17. In regulation 11(1)(a)(i) of the Flood Reinsurance (Scheme Funding and Administration) Regulations 2015(42), for “directly applicable” substitute “retained direct”.

### **The Water Supply (Water Quality) Regulations 2016**

18.—(1) The Water Supply (Water Quality) Regulations 2016 are amended as follows.

(2) In regulation 2, at the end insert—

“(5) In these Regulations, a reference to an EU or Euratom Directive is to be read as if any reference in that Directive to one or more member States in a provision imposing an obligation on, or conferring a discretion on, a member State or member States were a reference to either the Secretary of State or local authority depending on which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation, or able to exercise that discretion, in respect of England or Wales.”.

(3) In regulation 6(13), for the words from “communicate” to “Commission” substitute “publish, in such manner as the Secretary of State considers appropriate, the grounds for the notification”.

(4) In regulation 9, at the end insert—

“(13) For the purposes of paragraph (11)(c), Articles 7(1) and 8 of [Directive 2000/60/EC](#) are to be read with the following modifications—

(a) as if any reference to Annex 5 to that Directive were a reference to that Annex as modified by Part 1 of Schedule 5 to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017;

(b) in Article 8, as if—

(i) in paragraph 1, the final indent were omitted;

(ii) in paragraph 2, the first sentence were omitted;

(iii) paragraph 3 were omitted.”.

(5) In regulation 23—

(a) in paragraph (7), for “further departure” substitute “further two departures”;

(b) omit paragraphs (9) and (10);

(c) in paragraph (12) omit “and (9)”.

(6) In regulation 31—

(a) omit paragraph (2)(a) (together with the final “or”);

(b) in paragraph (2)(b), omit “of an EEA state or Turkey”;

(c) omit paragraph (3)(b);

(d) omit paragraph (15).

(7) After regulation 39 insert—

#### **“Reporting**

39A.—(1) The Secretary of State must prepare and publish a report on the quality of water intended for human consumption, with the objective of informing consumers.

(2) A report under paragraph (1) must—

(a) be published in such manner as the Secretary of State considers appropriate;



- (b) include, as a minimum, information on all individual supplies of water that—
  - (i) exceed 1,000m<sup>3</sup> a day as an average, or
  - (ii) serve more than 5,000 persons;
- (c) cover a period of three calendar years.
- (3) The first report under this regulation must cover the years 2017, 2018 and 2019 and be published by 31st December 2021.
- (4) Subsequent reports under this regulation must be published at intervals not exceeding three years.”.

### **The Private Water Supplies (England) Regulations 2016**

- 19.**—(1) The Private Water Supplies (England) Regulations 2016 are amended as follows.
- (2) In regulation 2, at the end insert—
    - “(3) In these Regulations, a reference to an EU or Euratom Directive is to be read as if any reference in that Directive to one or more member States in a provision imposing an obligation on, or conferring a discretion on, a member State or member States were a reference to either the Secretary of State or local authority depending on which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation, or was able to exercise that discretion, in respect of England.”.
  - (3) In regulation 6, at the end insert—
    - “(7) For the purposes of paragraph (5)(c), Articles 7(1) and 8 of [Directive 2000/60/EC](#) are to be read with the following modifications—
      - (a) as if any reference to Annex 5 to that Directive were a reference to that Annex as modified by Part 1 of Schedule 5 to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017;
      - (b) in Article 8, as if—
        - (i) in paragraph 1, the final indent were omitted;
        - (ii) in paragraph 2, the first sentence were omitted;
        - (iii) paragraph 3 were omitted.”.
  - (4) In regulation 11(12), for “communicate to the European Commission” substitute “publish, in such manner as the Secretary of State considers appropriate,”.
  - (5) After regulation 21, insert—

#### **“Reporting**

- 21A.**—(1) The Secretary of State must prepare and publish a report on the quality of water intended for human consumption, with the objective of informing consumers.
- (2) A report under paragraph (1) must—
    - (a) be published in such manner as the Secretary of State considers appropriate;
    - (b) include, as a minimum, information on all individual supplies of water that—
      - (i) exceed 1,000m<sup>3</sup> a day as an average, or
      - (ii) serve more than 5,000 persons;
    - (c) cover a period of three calendar years.
  - (3) The first report under this regulation must cover the years 2017, 2018 and 2019 and be published by 31st December 2021.

(4) Subsequent reports under this regulation must be published at intervals not exceeding three years.”.

## **The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017**

**20.**—(1) The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 are amended as follows.

(2) In regulation 2, at the end insert—

“(5) For the purposes of these Regulations, references to the WFD, GWD and EQSD, or to a provision of one of them, are to be read in accordance with Schedule 5.”.

(3) In regulation 10(2)(b)—

- (a) for “any EU instrument” substitute “retained EU law”;
- (b) omit “, or any enactment implementing such an EU instrument”.

(4) In regulation 11—

- (a) in paragraph (4)(a), for “the EU legislation” substitute “retained EU law”;
- (b) in paragraph (5)(c), for “1.4 to 1.4.3” substitute “1.4.1 (excluding points (iv) to (ix)), 1.4.2 and 1.4.3”;
- (c) after paragraph (5) insert—

“(5A) A requirement in any of the provisions of Annex 5 listed in paragraph (5) to provide a map is to be read (where this is not otherwise specified) as a requirement to include the map in the relevant river basin management plan.”.

(5) In regulation 13(6)—

- (a) for “any EU instrument” substitute “the retained EU law”;
- (b) for “that EU instrument” substitute “the relevant retained EU law”.

(6) In regulation 14(b), for “the implementation of any other EU instrument” substitute “any other retained EU law”.

(7) In regulation 20(2)—

- (a) omit sub-paragraph (a);
- (b) in sub-paragraph (j)(iv)(aa), for the words from “Directive” to the end substitute “Chapter 3 of Part 1 of the Energy Act 2008 and other retained EU law which transposed [Directive 2009/31/EC](#) on the geological storage of carbon dioxide”;
- (c) omit sub-paragraph (j)(iv)(bb).

(8) Omit regulation 23.

(9) In regulation 34, for paragraph (4) substitute—

“(4) The appropriate agency must, within three years of an updated river basin management plan being published under regulation 31(5)—

- (a) produce an interim report describing progress in the implementation of each planned programme of measures;
- (b) publish that report in such manner as the appropriate agency considers appropriate.”.

(10) In regulation 36—

- (a) in paragraphs (1) and (3), after “giving effect to” insert “these Regulations or any other retained EU law which implemented”;

- (b) in paragraph (5), after “practical implementation of” insert “these Regulations or any other retained EU law which implemented”.
- (11) In Schedule 1—
  - (a) in paragraph 1(1)(a), after “the WFD” insert “and is to be read in accordance with Schedule 5”;
  - (b) in paragraph 1(2), in the definition of “good surface water chemical status”, for “other relevant EU legislation setting environmental quality standards at EU level” substitute “relevant retained EU law which sets environmental quality standards”.
- (12) In Schedule 2, omit paragraph 1.
- (13) Omit Schedule 3.
- (14) After Schedule 4 insert—

“SCHEDULE 5

Regulation 2(5)

Modification of directives

**PART 1**

**Modifications of the Water Framework Directive**

1. A reference to the WFD, or to any provision of it, is to be read in accordance with this Part.
2. When interpreting the WFD for the purposes of these Regulations—
  - (a) a reference to one or more member States in a provision imposing an obligation, or conferring a discretion, on a member State or member States is to be read as a reference to the appropriate authority, appropriate agency or other public body which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation, or able to exercise that discretion, in respect of England or Wales;
  - (b) a reference to Article 13 of the WFD is to be read as a reference to Article 13 except in so far as it gives rise to any obligation under Article 15 of that Directive;
  - (c) any reference to Community legislation (other than a reference to existing Community legislation) is to be read as if it were a reference to retained EU law;
  - (d) any reference to existing Community legislation or existing legislation is to be read as if it were a reference to Community legislation which was in force prior to 23rd October 2000;
  - (e) the WFD is to be read as if the following modifications were made to it.
3. Article 2(24) is to be read as if, for the words from “in Annex IX” to the end, there were substituted “by the table of priority substances, and under relevant retained EU law which sets environmental quality standards”.
4. Article 4 is to be read as if—
  - (a) in paragraph 1—
    - (i) in point (a)(iv), for “Article 16(1) and (8)” there were substituted “the EQSD”;
    - (ii) in point (b)(iii), for “paragraphs 2, 4 and 5 of Article 17” there were substituted “the GWD”;
  - (b) in paragraph 8, the reference to other Community environmental legislation were a reference to retained EU law relating to the environment.
5. Article 7(2) is to be read as if—

- (a) for “at Community level under Article 16” there were substituted “by retained EU law which implemented the EQSD”;
  - (b) for “[Directive 80/778/EEC](#) as amended by [Directive 98/83/EC](#)” there were substituted “retained EU law which implemented [Directive 98/83/EC](#) on the quality of water intended for human consumption”.
- 6.** Article 10 is to be ignored.
- 7.** Article 11(3) is to be read as if—
- (a) in subparagraph (a), for the words from “to implement” to the end, there were substituted “under retained EU law for the protection of water”;
  - (b) in subparagraph (j), in the fourth indent, for the words from “[Directive 2009/31/EC](#)” to the end there were substituted “Chapter 3 of Part 1 of the Energy Act 2008 and other retained EU law which transposed [Directive 2009/31/EC](#) on the geological storage of carbon dioxide”;
  - (c) in subparagraph (k)—
    - (i) the words “in accordance with action taken pursuant to Article 16,” were omitted;
    - (ii) for “agreed pursuant to Article 16(2)” there were substituted “in Annex 10”.
- 8.** Article 12 is to be ignored.
- 9.** Article 15 is to be ignored.
- 10.** Article 24 is to be ignored.
- 11.** Annex 1 is to be ignored.
- 12.** Annex 2 is to be read as if—
- (a) in section 1.1, paragraph (vi) were omitted;
  - (b) in section 1.4—
    - (i) in the second paragraph—
      - (aa) after “gathered under” there were inserted “the retained EU law which implemented”;
      - (bb) in sub-paragraph (ii), the reference to information gathered under Articles 9 and 15 of [Directive 96/61/EC](#) were a reference to relevant information gathered under the retained EU law which transposed Articles 5(3), 14 and 24 of [Directive 2010/75/EC](#) on industrial emissions;
    - (ii) in the third paragraph—
      - (aa) after “gathered under” there were inserted “the retained EU law which implemented”;
      - (bb) in sub-paragraph (iii), the reference to [Directive 98/8/EC](#) were a reference to Regulation (EC) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products.
- 13.** Annex 4 is to be read as if—
- (a) in paragraph 1—
    - (i) in subparagraph (iii), for “[Directive 76/160/EEC](#)” there were substituted “retained EU law which transposed [Directive 2006/7/EC](#) concerning the management of bathing water quality”;

- (ii) in subparagraph (iv), after “under” (in both places it occurs) there were inserted “retained EU law which transposed”;
  - (iii) in subparagraph (v), for “[Directive 79/409/EEC](#)” there were substituted “retained EU law which transposed [Directive 2009/147/EC](#) on the conservation of wild birds”;
  - (b) in paragraph 2, the words “Community, local or national” were omitted.
- 14.** Annex 5 is to be read as if—
- (a) references in tables 1.2.1 to 1.2.5 to [Directive 91/414/EC](#), in each place they occur, were references to Regulation [\(EC\) No 1107/2009](#) of the European Parliament and of the Council concerning the placing of plant protection products on the market;
  - (b) references in tables 1.2.1 to 1.2.5 to [Directive 98/8/EC](#), in each place they occur, were references to Regulation [\(EC\) No 528/2012](#) of the European Parliament and of the Council concerning the making available on the market and use of biocidal products;
  - (c) in section 1.3.1, in the paragraph headed “Selection of monitoring points”, the fourth indent (referring to “the Information Exchange [Decision 77/795/EEC](#)”) were omitted;
  - (d) in section 1.3.5, the reference to the Drinking Water Directive were a reference to retained EU law which transposed [Directive 98/83/EC](#) on the quality of water intended for human consumption;
  - (e) in section 1.4.1—
    - (i) in point (iii), for the words from “shall be established” to the end there were substituted “is as set out in Commission Decision 2018/229 establishing, pursuant to [Directive 2000/60/EC](#) of the European Parliament and of the Council, the values of the Member State monitoring system classifications as a result of the intercalibration exercise”;
    - (ii) points (iv) to (ix) were omitted;
  - (f) in section 1.4.3, for the words “Annex IX, Article 16 and under other relevant Community legislation” there were substituted “Annex 1 to the EQSD and under relevant retained EU law”;
  - (g) in the table in section 2.3.2, in the column for “good status”, for “other relevant Community legislation in accordance with Article 17” there were substituted “the GWD”;
  - (h) in section 2.4.5, the words “Without prejudice to the Directives concerned” were omitted.
- 15.** Annex 6 is to be read as if Part A were omitted.
- 16.** Annex 7 is to be read as if, in Part A—
- (a) in point 7.1, for “to implement Community legislation” there were substituted “under retained EU law”;
  - (b) point 10 were omitted.

## PART 2

### Modifications of the Groundwater Directive

- 17.** A reference to the GWD, or to any provision of it, is to be read in accordance with this Part.
- 18.** When interpreting the GWD for the purposes of these Regulations—
- (a) a reference to one or more member States in a provision imposing an obligation, or conferring a discretion, on a member State or member States is to be read as a reference to the appropriate authority, appropriate agency or other public authority which, immediately

- before exit day, was responsible for the United Kingdom’s compliance with that obligation, or able to exercise that discretion, in respect of England or Wales;
- (b) any reference to Community legislation is to be read as if it were a reference to retained EU law;
- (c) the GWD is to be read as if the following modifications were made to it.
- 19.** Article 3 is to be read as if—
- (a) paragraphs 3 and 4 were omitted;
- (b) in paragraph 5, for “submitted” there were substituted “produced”.
- 20.** Article 5 is to be read as if, in each of paragraphs 4 and 5, for “submitted” there were substituted “produced”.
- 21.** Article 6(4) is to be read as if the words after “paragraph 3” were omitted.
- 22.** Article 12 is to be ignored.
- 23.** Annex 1 is to be read as if—
- (a) in footnote 1 to the table in point 1, for “Article 2 of [Directive 91/414/EEC](#) and in Article 2 of [Directive 98/8/EC](#)” there were substituted “Article 2 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market and Article 3 of Regulation (EC) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products”;
- (b) in point 2, for “[Directive 91/414/EEC](#) or [Directive 98/8/EC](#)” there were substituted “Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market or Regulation (EC) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products”.
- 24.** Annex 2 is to be read as if, in Part C—
- (a) for “submitted” there were substituted “produced”;
- (b) in point (c)(iii), for “at national, Union or” there were substituted “in retained EU law or other national legislation, or at”.

## PART 3

### Modifications of the Environmental Quality Standards Directive

- 25.** A reference to the EQSD, or to any provision of it, is to be read in accordance with this Part.
- 26.** When interpreting the EQSD for the purposes of these Regulations—
- (a) each reference to one or more member States in a provision imposing an obligation, or conferring a discretion, on a member State or member States is to be read as a reference to the appropriate authority, appropriate agency or other public authority which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation, or able to exercise that discretion, in respect of England or Wales;
- (b) the EQSD is to be read as if the following modifications were made to it.
- 27.** Article 3 is to be read as if—
- (a) each reference to a provision of Commission [Directive 2009/90/EC](#) laying down, pursuant to [Directive 2000/60/EC](#) of the European Parliament and of the Council, technical

specifications for chemical analysis and monitoring of water status were modified in accordance with paragraph 26(a);

(b) paragraph 5a were omitted.

**28.** Article 4 is to be read as if—

(a) in paragraph 2(b), for “referred to in [Directive 2008/1/EC](#)” there were substituted “under the Environmental Permitting (England and Wales) Regulations 2016<sup>(43)</sup>”;

(b) in paragraph 3(b), the reference to Community law were a reference to retained EU law.

**29.** Article 5 is to be read as if—

(a) references to [Directive 91/414/EEC](#) were references to Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market;

(b) paragraph 3 were omitted.

**30.** The following Articles are to be ignored—

(a) Article 6(1)(c) and (2);

(b) Article 7a;

(c) in Article 8a(1), the final sentence of the second subparagraph;

(d) Article 8b(4);

(e) Article 8c;

(f) Article 13.”.

### **The Water Abstraction and Impounding (Exemptions) Regulations 2017**

**21.** In regulation 2 of the Water Abstraction and Impounding (Exemptions) Regulations 2017<sup>(44)</sup>, in the definition of “conservation site”—

(a) omit paragraph (a);

(b) in paragraph (b), for the words from “within” to the end substitute “or proposed special area of conservation within the meaning of regulations 12 and 13, respectively, of the 2017 Regulations”.

### **The Water Abstraction (Transitional Provisions) Regulations 2017**

**22.** In regulation 9 of the Water Abstraction (Transitional Provisions) Regulations 2017<sup>(45)</sup>—

(a) after paragraph (4) insert—

“(4A) In paragraph (4)—

(a) in the definitions of “good ecological potential” and “good ecological status”, references to Annex 5 to the Directive are to be read as if in Annex 5—

(i) a reference to one or more member States in a provision imposing an obligation, or conferring a discretion, on a member State or member States is to be read as a reference to the appropriate authority or appropriate agency which, immediately before exit day, was responsible for the United Kingdom’s compliance with that obligation, or was able to exercise that discretion, in respect of England or Wales;

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<sup>(43)</sup> [S.I. 2016/1154](#), to which there are amendments not relevant to these Regulations.

<sup>(44)</sup> [S.I. 2017/1044](#), amended by [S.I. 2018/942](#).

<sup>(45)</sup> [S.I. 2017/1047](#), amended by [S.I. 2018/575](#).

- (ii) references in tables 1.2.1 to 1.2.5 to [Directive 91/414/EC](#), in each place they occur, were references to Regulation [\(EC\) 1107/2009](#) of the European Parliament and of the Council concerning the placing of plant protection products on the market;
- (iii) references in tables 1.2.1 to 1.2.5 to [Directive 98/8/EC](#), in each place they occur, were references to Regulation [\(EC\) 528/2012](#) of the European Parliament and of the Council concerning the making available on the market and use of biocidal products;
- (iv) in section 1.4.1—
  - (aa) in point (iii), for the words from “shall be established” to the end there were substituted “is as set out in Commission Decision 2018/229 establishing, pursuant to [Directive 2000/60/EC](#) of the European Parliament and of the Council, the values of the Member State monitoring system classifications as a result of the intercalibration exercise”;
  - (bb) points (iv) to (ix) were omitted;
- (b) in the definition of “good quantitative status”, the reference to table 2.1.2 of Annex 5 to the Directive is to be read as if the reference to environmental objectives under Article 4 were a reference to the environmental objectives—
  - (i) in relation to the Solway Tweed River Basin District, as defined in regulation 2 of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004;
  - (ii) in relation to the Northumbria River Basin District, referred to in the WFD Regulations as applied and modified by regulation 5 of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003<sup>(46)</sup>;
  - (iii) in relation to any other river basin district, within the meaning of the WFD Regulations.”.
- (b) in paragraph (5)—
  - (i) for “paragraph (4),” substitute “this regulation—”;
  - (ii) the definition of “the Directive” becomes sub-paragraph (a);
  - (iii) after sub-paragraph (a) insert—
    - “(b) “the WFD Regulations” means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017<sup>(47)</sup>.”.

## PART 4

### Amendment and revocation of EU decisions

#### Commission Implementing [Decision 2011/321/EU](#)

**23.** In Commission Implementing [Decision 2011/321/EU](#) establishing, pursuant to [Directive 2006/7/EC](#) of the European Parliament and of the Council, a symbol for information to the public on bathing water classification and any bathing prohibition or advice against bathing, omit Article 2.

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<sup>(46)</sup> S.I. 2003/3245; relevant amending instruments are S.I. 2016/139 and 2017/407.

<sup>(47)</sup> S.I. 2017/407, amended by S.I. 2018/942.



### Commission Decision (EU) 2017/1583

24.—(1) Commission Decision (EU) 2017/1583 specifying, pursuant to [Directive 2006/7/EC](#) of the European Parliament and of the Council, EN ISO 17994:2014 as the standard on the equivalence of microbiological methods is amended as follows.

(2) In Article 1—

- (a) the existing text becomes paragraph 1;
- (b) after paragraph 1 insert—

“2. The reference in paragraph 1 to Article 3(9) of [Directive 2006/7/EC](#), is to be read as if any requirements imposed or discretion conferred by that provision on a member State were imposed or conferred on the relevant person.

3. In this Article, “relevant person” means—

- (a) in relation to England, the Environment Agency;
- (b) in relation to Wales, the Natural Resources Body for Wales;
- (c) in relation to Scotland, the Scottish Environment Protection Agency;
- (d) in relation to Northern Ireland, the Department for Agriculture, Environment and Rural Affairs.”.

(3) Omit Articles 2 and 3.

### Commission Decision (EU) 2018/229

25.—(1) Commission Decision (EU) 2018/229 establishing, pursuant to [Directive 2000/60/EC](#) of the European Parliament and of the Council, the values of the Member State monitoring system classifications as a result of the intercalibration exercise is amended as follows.

(2) In Article 1—

- (a) in paragraph 1, for “Member States shall use in their” substitute “the relevant person must use in its”;
- (b) in paragraph 2—
  - (i) for “Member States shall” substitute “the relevant person must”;
  - (ii) for “use in their” substitute “use in its”;
- (c) in paragraph 3, for “Member States” substitute “The relevant person”;
- (d) after paragraph 3 insert—

“4. In this Article—

- (a) “relevant person” means—
  - (i) in relation to England and the Northumbria River Basin District, the Environment Agency (“the EA”) (subject to points (iii) and (v));
  - (ii) in relation to Wales, the Natural Resources Body for Wales (“NRW”) (subject to point (iii));
  - (iii) in relation to a river basin district which is partly in England and partly in Wales, the EA and NRW acting jointly;
  - (iv) in relation to Scotland, the Scottish Ministers (subject to point (v));
  - (v) in relation to the Solway Tweed River Basin District, the EA and the Scottish Environment Protection Agency acting jointly;
  - (vi) in relation to Northern Ireland, the Department for Agriculture, Environment and Rural Affairs;

- (b) references to Article 4(3) of, and Section 1.4.1(iii) of Annex 5 to, [Directive 2000/60/EC](#) are to be read as if any requirements imposed or discretion conferred by those provisions on a member State were imposed or conferred on the relevant person.”;
- (e) omit Articles 2 and 3.

#### **Commission Implementing [Decision 2018/840/EU](#)**

**26.** In Commission Implementing [Decision 2018/840/EU](#) establishing a watch list of substances for Union-wide monitoring in the field of water policy pursuant to [Directive 2008/105/EC](#) of the European Parliament and of the Council—

- (a) in Article 1, omit “for Union-wide”;
- (b) omit Articles 2 and 3;
- (c) in the heading of the Annex, omit “Union-wide”.

#### **Revocations and removal of EEA references**

**27.** The following retained direct EU legislation is revoked and any reference to that legislation in Annex 20 to the EEA agreement is to be omitted—

- (a) Decision No [2455/2001/EC](#) of the European Parliament and of the Council establishing the list of priority substances in the field of water policy;
- (b) Commission [Decision 2005/646/EC](#) on the establishment of a register of sites to form the intercalibration network in accordance with [Directive 2000/60/EC](#) of the European Parliament and of the Council;
- (c) Commission Implementing [Decision 2014/431/EU](#) concerning formats for reporting on the national programmes for the implementation of Council [Directive 91/271/EEC](#).

*Thérèse Coffey*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

20th March 2019

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c. 16) to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (f) and (g) of that Act) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the fields of floods and water. Part 2 amends primary legislation, Part 3 amends secondary legislation and Part 4 amends and revokes EU Decisions.

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