

Statutory Instrument 2003 No. 3245

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

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STATUTORY INSTRUMENTS

2003 No. 3245

WATER RESOURCES, ENGLAND

WATER RESOURCES, SCOTLAND

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

Made

10th December 2003

Laid before Parliament

11th December 2003

Coming into force

2nd January 2004

The Secretary of State, being a Minister designated^[1] for the purposes of section 2(2) of the European Communities Act 1972^[2] in relation to matters relating to water resources, in exercise of the powers conferred upon her by that section^[3], hereby makes the following Regulations:

Title, commencement and extent

1. - (1) These Regulations may be cited as the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003 and shall come into force on 2nd January 2004.

(2) Regulation 6 has the same extent as Part 1 of the Scottish Act (protection of the water environment) and the other provisions of these Regulations extend to Great Britain and the adjacent territorial sea.

Interpretation

2. In these Regulations -

"the Directive" means Directive 2000/60/EC of the European Parliament and of the Council of 23rd October 2000 establishing a framework for Community action in the field of water policy, as amended^[4];

"the principal Regulations" means the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003^[5];

"the Northumbria River Basin District" means the area identified by regulation 3(1);

"relevant functions" means -

(a) in relation to the Secretary of State and the Agency, functions under regulations 5 to 20 of the principal Regulations and, so far as material, the enactments listed in Parts 1 and 2 of Schedule 2 to those Regulations (which relate to statutes and subordinate instruments respectively); and

(b) in relation to the Scottish Ministers and the Scottish Environment Protection Agency, functions under Part 1 of the Scottish Act, as applied by regulation 6;

"the Scottish Act" means the Water Environment and Water Services (Scotland) Act 2003^[6]; and

"the Scottish Ministers" has the meaning given by section 127 of the Scotland Act 1998^[7].

River basin districts

3. - (1) The area shown on the deposited 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 Secretary of State, the Scottish Ministers, the Agency and the Scottish Environment Protection Agency must ensure that the deposited map is made available to the public through their respective websites and at the relevant places.

(3) The relevant places are -

- (a) in the case of the Secretary of State, the principal library of the Department for Environment, Food and Rural Affairs;
- (b) in the case of the Scottish Ministers, the Information Centre of the Scottish Parliament; and
- (c) in the case of the Agency and the Scottish Environment Protection Agency, their respective principal offices and principal offices for the regions in which any part of the Northumbria River Basin District lies.

(4) In this regulation -

- (a) "the deposited map" means the map and related information recorded on the CD-ROM which is -
 - (i) entitled "The Northumbria River Basin District 2003"; and
 - (ii) deposited in the principal library of the Department for Environment, Food and Rural Affairs; and
- (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.

The general duties

4. - (1) The Secretary of State, the Scottish Ministers, the Agency and the Scottish Environment Protection Agency must exercise their relevant functions so as to secure -

- (a) that the requirements of the Directive for the achievement of its environmental objectives, and in particular the programme of measures, are co-ordinated for the whole of the Northumbria River Basin District; and
- (b) compliance in relation to that district with the other requirements of the Directive.

(2) In this regulation -

- (a) "environmental objectives" means 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
- (b) "programme of measures" means the programme of measures required to comply with Article 11(2) to (6) of the Directive (programme of measures).

Application of provisions of the principal Regulations to the Northumbria River Basin District

5. - (1) Regulations 2 and 5 to 20 of the principal Regulations (river basin management planning) shall apply to the whole of the Northumbria River Basin District as they apply to river basin districts identified by regulation 4(1) of those Regulations (river basin districts), subject to the following modifications.

(2) Regulation 2 (interpretation) shall have effect as if the definition of "the appropriate authority" were deleted, and regulations 6, 10 to 15, 18 and 20 shall have effect as if for each reference to the appropriate authority there were substituted a reference to the Secretary of State.

(3) Regulation 12 (river basin management plans: public participation) shall have effect as if -

(a) after paragraph (2)(a) there were inserted -

" (aa) send copies of the statement, summary or draft plan to the Scottish Environment Protection Agency which shall make them accessible to the public free of charge through its website, at its principal office and at the principal office for its East Region;"

(b) after paragraph (3)(a) "and" were omitted and there were inserted -

" (aa) in the Edinburgh Gazette; and";

(c) in paragraph (4) -

(i) for sub-paragraph (a) there were substituted -

" (a) the Secretary of State and the Scottish Ministers;

(aa) the Scottish Environment Protection Agency;

(aaa) every responsible authority which has functions exercisable in or in relation to any part of the river basin district;"

(ii) for sub-paragraph (e) there were substituted -

" (e) every local planning authority in England any part of whose area is within the river basin district;"

(iii) after sub-paragraph (f) there were inserted -

" (ff) the River Tweed Commissioners;" and

(iv) after sub-paragraph (i) there were inserted -

" (ii) Scottish Water;" and

(d) for paragraph (5) there were substituted -

" (5) In this regulation -

(a) "appropriate nature conservation bodies" means the Joint Nature Conservation Committee, English Nature and Scottish Natural Heritage;

(b) "harbour" and "harbour authority" have the meanings given by section 57 of the Harbours Act 1964^[8];

(c) "the River Tweed Commissioners" means the council constituted in accordance with section 6 of the Tweed Fisheries Act 1969^[9];

(d) "local authority" means, in relation to England, the council of any county, county borough or district and, in relation to Scotland, any council constituted under section 2 of the Local Government etc. (Scotland) Act 1994^[10];

(e) "local fisheries committee" and "sea fisheries district" mean a local fisheries committee constituted, and a sea fisheries committee created, by an order under section 1 of the Sea Fisheries Regulation Act 1966^[11];

(f) "local planning authority" has the meaning given by section 1 of the Town and Country Planning Act 1990^[12];

(g) "navigation authority" has the meaning given by section 221(1) of the Water Resources Act 1991^[13];

(h) "the plan period", in relation to a plan, means the period to which a direction under regulation 11(2)(a) requires it to relate;

(i) "responsible authority" has the meaning given by section 2(8) of the Water Environment and Water Services (Scotland) Act 2003; and

(j) "the Scottish Ministers" has the meaning given by section 127 of the Scotland Act 1998."

(4) Regulation 13 (river basin management plans: submission for approval) shall have effect as if after paragraph (1)(a) there were inserted -

" (aa) send a copy of the plan to the Scottish Environment Protection Agency which shall make it accessible to the public free of charge through its website, at its principal office and at the principal office for its East Region;"

(5) Regulation 14 (river basin management plans: approval) shall have effect as if after sub-paragraph (3)(a) "and" were omitted and there were inserted -

" (aa) send a copy of the approved plan to the Scottish Environment Protection Agency which shall make it accessible to the public free of charge through its website, at its principal office and at the principal office for its East Region; and".

Application of Part 1 of the Scottish Act to the Northumbria River Basin District

6. - (1) Part 1 of the Scottish Act shall apply in relation to so much of the Northumbria River Basin District as lies within Scotland, subject to the following modifications.

(2) Sections 4 to 15, 17 and 19 (river basin management planning) shall not apply.

(3) Section 16 (duty to have regard to river basin management plans and sub-basin plans) shall have effect as if -

- (a) references to a river basin district included references to the Northumbria River Basin District; and
- (b) in relation to that district -
 - (i) in paragraph (a), the reference to the river basin management plan were a reference to the river basin management plan for that district as approved under regulation 14 of the principal Regulations and any supplementary plan prepared under regulation 16 of the principal Regulations; and
 - (ii) paragraphs (b) and (c) were omitted.

- (4) Section 18 shall apply as if -
- (a) in subsection (1), the reference to "SEPA's functions under this Chapter"; and
 - (b) in subsection (2), the reference to "any of its functions under this Chapter",

were a reference to the Scottish Environment Protection Agency's relevant functions and its duty under regulation 4.

(5) Sections 20(2)(b) (regulation of controlled activities) and 22(1) (remedial and restoration measures) and paragraph 2(2) of Schedule 2 (regulators to exercise functions with a view to achieving environmental objectives set out in river basin management plans) shall have effect as if references to environmental objectives set out in river basin management plans included references to environmental objectives set out in any river basin management plan for the Northumbria River Basin District approved under regulation 14 of the principal Regulations.

(6) Section 26 (annual report on implementation of Directive) shall have effect as if -

(a) in paragraph (a), the reference to Part 1 (protection of the water environment) included a reference to that Part as applied by these Regulations; and

(b) in paragraph (b), the reference to section 9 (environmental objectives and programmes of measures) included a reference to regulation 10 of the principal Regulations as it applies to the Northumbria River Basin District.

(7) Section 27 shall have effect as if the reference to Part 1 (protection of the water environment) included a reference to that Part as applied by these Regulations.

Elliot Morley

Minister of State, Department for Environment, Food and Rural Affairs

10th December 2003

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the purpose of implementing for the Northumbria River Basin District Directive 2000/60/EC of the European Parliament and of the Council of 23rd October 2000 establishing a framework for Community action in the field of water policy (O.J. No. L327, 22.12.2000, p. 1), known as the Water Framework Directive ("the Directive"). The Directive is accessible by using the weblink <http://europa.eu.int/eur-lex/en>.

The Northumbria River Basin District ("the district"; identified by regulation 3) is partly in England and partly in Scotland because a number of tributaries of the River Tyne extend into Scotland. The Regulations therefore adapt and apply the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 (S.I. 2003/3242; "the principal Regulations") and the Water Environment and Water Services (Scotland) Act 2003 (2003 asp 3; "the Scottish Act") in relation to the district to ensure that the Directive's requirements are met for the district as a whole. The principal Regulations otherwise apply to river basin districts that are wholly in England, wholly in Wales, or partly in England and partly in Wales; the Scottish Act otherwise applies to river basin districts that are wholly in Scotland.

These Regulations require a new strategic planning process to be established for the purposes of managing, protecting and improving the quality of water resources in the whole district. General responsibility for ensuring that the Directive is given effect in relation to the district is placed on the Secretary of State (regulation 5(2); regulation 3 of the principal Regulations). Related general duties are placed on the Secretary of State, the Scottish Ministers (defined by reference to the Scotland Act 1998 as members of the Scottish

Executive), the Environment Agency ("the Agency") and the Scottish Environment Protection Agency ("SEPA") (regulations 4 and 6(1); section 2 of the Scottish Act).

The main elements of the principal Regulations are applied in relation to the Northumbria River Basin District (regulation 5(1)). The Agency is therefore required to carry out detailed monitoring and analysis in relation to each river basin district (regulations 5 and 9 of the principal Regulations), and the Secretary of State must ensure that appropriate economic analysis is also carried out (regulation 6 of the principal Regulations). Certain waters used for the abstraction of drinking water must be identified (regulation 7 of the principal Regulations) and a register must be established of those waters and certain other protected areas (regulation 8 of the principal Regulations).

This analytical and preparatory work must then inform the preparation by the Agency of proposals for environmental objectives and a programme of measures in relation to the district (regulation 10 of the principal Regulations). Those objectives will translate the generic environmental objectives set out in the Directive to the particular situation in the district as a whole. The preparation of such proposals must include public involvement, and consultation with the Scottish Ministers, SEPA and other relevant bodies in Scotland (regulation 5; regulation 12 of the principal Regulations). Proposals themselves are subject to approval by the Secretary of State.

The results of the Agency's technical work, the environmental objectives and proposals for a programme of measures must be brought together in the preparation of a river basin management plan for the district (regulations 11 to 15 of the principal Regulations). The Agency is to prepare a draft plan, after public involvement and consultation with relevant bodies in Scotland (regulation 5; regulations 11 and 12 of the principal Regulations). That plan must contain details of the results of the technical and planning work that will have been done, along with the environmental objectives and programme of measures proposed for the district. The plan is subject to approval by the Secretary of State and must be reviewed periodically (regulations 13 to 15 of the principal Regulations). The Agency may also prepare supplementary plans, which are not subject to approval by the Secretary of State (regulation 16 of the principal Regulations).

The Secretary of State, the Agency and other public bodies in England, and the Scottish Ministers and relevant bodies in Scotland, are required to have regard to the river basin management plan for the district, and to any supplementary plans, in exercising their functions in relation to the district (regulation 6(3) and section 16 of the Scottish Act; regulation 17 of the principal Regulations).

The Regulations also make supplementary provision in respect of the publication of information, the provision of information and assistance and the giving of guidance or directions for the purpose of giving effect to the Directive (regulations 18 to 20 of the principal Regulations), and in relation to the application of Part 1 of the Scottish Act and (with respect to the provision of information) SEPA's duty under regulation 4 (regulation 6).

A Regulatory Impact Assessment and a Transposition Note have been prepared in connection with these Regulations and the principal Regulations and a copy of each has been placed in the library of each House of Parliament. Copies can also be obtained from the Water Quality Division, Department for Environment, Food and Rural Affairs, Zone 3/H16, Ashdown House, 123 Victoria Street, London SW1E 6DE, or by using the weblink

<http://defra.gov.uk/environment/water/wfd/index.htm>

Notes:

[1] S.I. 2003/2901.[back](#)

[2] 1972 c. 68.[back](#)

[3] The power of the Minister to make regulations in relation to matters as regards Scotland is preserved by section 57(1) of the Scotland Act 1998 (c. 46).[back](#)

[4] O.J. No. L327, 22.12.2000, p. 1; amended by Decision 2455/2001/EC of the European Parliament and of the Council of 20th November 2001 establishing the list of priority substances in the field of water policy and amending Directive 2000/60/EC (O.J. No. L331, 15.12.2001, p. 1).[back](#)

[5] S.I. 2003/3242.[back](#)

[6] 2003 asp 3.[back](#)

[7] 1998 c. 46.[back](#)

[8] 1964 c. 40.[back](#)

[9] 1969 c. 24.[back](#)

[10] 1994 c. 39.[back](#)

[11] 1966 c. 38.[back](#)

[12] 1990 c. 8; section 1 was amended by the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28), section 187(1) and Schedule 24, and the Environment Act 1995 (c. 25), sections 78 and 120 and Schedules 10 and 24.[back](#)

[13] 1991 c. 57.[back](#)

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