

**EXPLANATORY MEMORANDUM TO**  
**The Water Framework Directive (Priority Substances and Classification)**  
**Regulations (Northern Ireland) 2011**

**SR 2011 No. 10**

**Introduction**

1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
2. The Statutory Rule is made under Article 5 of the Water (Northern Ireland) Order 1999 and section 2(2) of the European Communities Act 1972 and is subject to the negative resolution process.

**Purpose**

3. The purpose of the proposed Regulations is to provide a statutory basis for classification schemes in support of the implementation of the Water Framework Directive (2000/60/EEC)(WFD) in Northern Ireland and to transpose the Priority Substances Directive (2008/105/EC), a daughter Directive to the WFD, which develops the European Framework for protecting the water environment from the impacts of dangerous chemicals.

**Background**

4. The WFD requires the Department to prevent any further deterioration in the status of water bodies and to aim to restore water bodies to good status by 2015. To achieve these objectives environmental standards have been identified that support healthy aquatic plant and animal communities and these have been used to develop classification schemes. The classification schemes are based on recommendations made by the UK Technical Advisory Group (UKTAG) – a partnership of the UK environment and conservation agencies including the Northern Ireland Environment Agency (NIEA) – and will provide a mechanism for assessing and describing where the water environment is of good quality and where it may require improvement.
5. The Priority Substances Directive requires the Department to apply environmental quality standards (EQSs) for priority substances (substances which present a significant risk to or via the aquatic environment) when assessing good status for surface waters. It also requires the Department to arrange for long term trend analysis of priority substances and to establish an inventory of emissions, discharges and losses for all priority substances and other pollutants.
6. In particular, the Priority Substances Directive introduces EQSs for some new substances and more stringent standards for other substances than those already in place.

## **Consultation**

7. The consultation period ran from 2 June 2010 to 10 August 2010. Late responses were accepted up to 18 August 2010. Approximately 420 organisations and individuals were consulted and fifteen responses were received.
8. Of the 15 responses received 11 provided substantive comment. Eight were supportive of the proposals. No significant common issues relating to the proposed Regulations were identified in the responses.
9. A synopsis of responses received was considered by the Environment Committee at their meeting of 7 October 2010 and Committee Members were generally satisfied with the Department's proposed responses and action.

## **Equality Impact Assessment**

10. The proposed changes will have no impact on any of the relevant groups as defined in Section 75 of the Northern Ireland Act 1998.

## **Regulatory Impact Assessment**

11. A Regulatory Impact Assessment was prepared on the basis of data for England and Wales due to the lack of specific data for Northern Ireland. However, it was clear from comparable data from England and Wales that a phased implementation approach would result in lower annual costs to businesses in Northern Ireland. Additional monitoring and investigation will take place during the phased implementation ensuring that only considered and proportionate measures are put in place.

## **Financial Implications**

12. No specific cost information was provided for Northern Ireland in the responses to the consultation on the partial Regulatory Impact Assessment.

## **Section 24 of the Northern Ireland Act 1998**

13. The Rule does not discriminate on the grounds of religious belief or political opinion nor does it modify the European Communities Act, the Human Rights Act 1998 or other statutory provisions listed in section 7 of the 1998 Act.

## **EU Implications**

14. The Regulations fulfil the obligation under Directive 2008/105/EC.

## **Parity or Replicatory Measure**

### Classification

15. England, Wales and Scotland published Directions to the Environment Agency for England and Wales and the Scottish Environment Protection Agency respectively,

dealing with standards and classification in December 2009. The standards used have been broadly agreed across the UK.

Priority Substances

16. The Department and its counterparts in England, Scotland and Wales seek to achieve a broadly consistent approach to policy and to the content of the Regulations across the UK. A similar transposition of the Priority Substances Directive was implemented in England and Wales in August 2010 via Direction to the Environment Agency. In Scotland, Regulations to implement the Directive have been in force since November 2009.

**Additional Information**

17. Not applicable.