

**2019 No. 000**

**ENVIRONMENTAL PROTECTION**

**The Nutrient Action Programme (Amendment) Regulations  
(Northern Ireland) 2019**

*Made* - - - - - *xx xxxxx 2019*

*Coming into operation* - *xx August 2019*

The Department of Agriculture, Environment and Rural Affairs, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the environment, in exercise of the powers conferred by that section and in exercise of the powers conferred by Article 32 of the Waste and Contaminated Land (Northern Ireland) Order 1997(c), and now vested in it(d) makes the following Regulations.

In accordance with Article 32(3) of that Order the Department has published in the Belfast Gazette a notice indicating the effect of these Regulations and specifying the matters referred to in subparagraph (a)(i) to (iii). The Department has taken into consideration the representations made to it in accordance with that notice. Or No representations have been made in accordance with that notice.

**Citation and commencement**

1. These Regulations may be cited as the Nutrient Action Programme (Amendment) Regulations (Northern Ireland) 2019 and come into operation on 1st August 2019.

**Interpretation**

2. The Interpretation Act (Northern Ireland) 1954(e) applies to these Regulations as it applies to an Act of the Assembly.

**Amendments to the Nutrient Action Programme Regulations (Northern Ireland) 2019**

3. The Nutrient Action Programme Regulations (Northern Ireland) 2019 are amended in accordance with regulations 4 to 17.

**Amendment of regulation 3**

4. In regulation 3(2), after the definition of “Department” insert—  
““derogated holding” a grassland holding for which a derogation has been granted;

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(a) S.I. 2008/301  
(b) 1972 c. 68  
(c) S.I. 1997 No.2778 (N.I. 19)  
(d) S.R. 2016 No. 76, article 8(1)(c)  
(e) 1954 c.33 (N.I.)

“derogation” means a derogation from the limit of livestock manure that can be applied to land each year, granted by the Department in accordance with regulation 39;

“derogation application” means an application for derogation submitted by the controller to the Department in such manner as it may require;”.

#### **Amendment of regulation 9**

5. In regulation 9(1), for “The” substitute “Except where regulation 39 applies, the”.

#### **Amendment of regulation 12**

6. In regulation 12, after paragraph (4) insert—

“(4A) Paragraphs (2) and (3) shall not apply in relation to the controller where anaerobic digestate is produced on the holding on which it is to be applied, from livestock manure produced on the holding and non-waste feedstocks.”.

#### **Amendment of regulation 13**

7. In regulation 13 after paragraph (3) insert—

“(4) The application limits set out in Table 2 of Schedule 3 shall have effect from 1st January 2020.”.

#### **Amendment of regulation 16(2)**

8. In regulation 16(2) after paragraph (i) insert—

“(j) in the case of a derogated holding, a description of the housing and manure storage system, including the volume of manure storage available;”.

#### **Amendment of regulation 20**

9. In regulation 20(3), for “with” substitute “within”.

#### **Amendment of regulation 27**

10. In regulation 27

(a) for paragraph (3) substitute—

“(3) Records under paragraph (1)(n) shall be prepared for each calendar year and shall be submitted to the Department by 1st March of the following year for derogated holdings and by 31st January of the following year for all other holdings, in a format specified by the Department and a copy shall be retained by the controller for a period of 5 years from the date of preparation or submission whichever is later.”;

(b) after paragraph (3) insert—

“(3A) Where the controller is required to prepare a fertilisation plan in relation to a derogated holding for a calendar year they shall prepare that plan no later than 1st March in that calendar year.”.

#### **Amendment of regulation 31**

11. In regulation 31(2), for “and 30(2)(c)” substitute “, 30(2)(c) and 40(4)”.

#### **Amendment of regulation 32**

12. In regulation 32—

- (a) in paragraph (1) for “or 27(3)” substitute “, 27(3), (3A), 40(3) or Schedule 8 except paragraph 4”; and
- (b) in paragraph (3) for “or 28” substitute “, 28 or paragraph 4 of Schedule 8”.

### **Amendment of regulation 35**

**13.** In regulation 35 after paragraph (6) insert—

“(7) As part of the review conducted under this regulation, the Department must review the overall position of derogations granted under regulation 39(3) against the effectiveness in meeting objectives of reducing water pollution from nutrients and preventing further pollution.”.

### **Insert Part 10**

**14.** After Part 9 insert—

## **“PART 10**

### **Derogation from measures governing the limits on land application of livestock manure**

**39.**—(1) A controller may submit to the Department an application for an annual authorisation to apply grazing livestock manure containing up to 250kg nitrogen per hectare per year.

(2) In the application referred to in paragraph (1), the controller shall undertake in writing to submit to all the controls provided for in regulation 40 and to fulfil the conditions set out in Schedule 8.

(3) An authorisation to apply an amount of livestock manure containing up to 250kg nitrogen per hectare per year shall be granted by the Department, subject to the conditions set out in Schedule 8.

**40.**—(1) The Department shall carry out administrative controls in respect of all applications for authorisation for the assessment of compliance with the conditions set out in Schedule 8.

(2) Following this consideration the Department may grant or refuse a derogation application and notify the applicant of the decision as follows—

- (a) where the Department considers that those conditions have not been fulfilled, the application must be refused within a period of 28 days from the date the application is received and the applicant shall be informed of the reasons for refusal;
- (b) where the Department has not notified the applicant of a refusal within the period mentioned in sub-paragraph (a), the derogation shall be deemed to have been granted.

(3) Where it is established that in any year that a grassland holding covered by an authorisation did not fulfil the conditions set out in Schedule 8, the controller commits an offence and shall not be eligible for an authorisation the following year.

(4) The controller may appeal the decision by the Department in relation to a refusal under paragraph (2) or in relation to an authorisation under paragraph (3) in accordance with the procedure set out in regulation 31.”

### **Amendment of Schedule 2**

**15.** At the end of Schedule 2 insert—

## “Criteria as to calculation of phosphorus balance

1.—(1) Phosphorus balance is the difference between phosphorus inputs to the holding less the total of phosphorus outputs leaving the holding. It is calculated per unit area of agricultural land on the holding for each calendar year.

(2) Phosphorus inputs include, when imported on to the holding—

- (a) the total amount of phosphorus in chemical fertiliser;
- (b) the total amount of phosphorus in feedstuffs (calculated using values from Table 7); and
- (c) the total amount of phosphorus in organic manure (calculated using values from Table 2).

(3) Phosphorus outputs include, when exported from the holding—

- (a) the total amount of phosphorus in produce, for example, meat, milk and crops (calculated using values from Table 7); and
- (b) the total amount of phosphorus in organic manure (calculated using values from Table 2).

(4) Inputs of phosphorus to agricultural land in precipitation and losses of phosphorus from the holding to any waterway or water contained in any underground strata are excluded from the balance calculation.

**Table 7**

### **Phosphorus (P) content of agricultural products and feedstuffs**

<i>Agricultural product</i>	<i>Phosphorus content (% fresh weight)</i>
Poultry concentrate	0.5 (or actual declared content)
Pig concentrate	0.48 (or actual declared content)
Ruminant concentrate	0.55 (or actual declared content)
All other concentrates	0.58 (or actual declared content)
Cattle	0.66
Milk	0.10
Sheep	0.54
Wool	0.04
Pigs	0.50
Poultry	0.58
Eggs	0.22
Straw	0.10
Silage	0.06
Hay	0.30
Potatoes	0.04
Oats	0.29
Barley	0.30
Wheat	0.26
Maize	0.25
Full fat soya	0.45
Linseed	0.81
Rape	1.10
Soya	0.68
Sunflower	0.93
Gluten	0.96
Citrus	0.1
Wheat distillers	0.77
Corn distillers	0.77

<i>Agricultural product</i>	<i>Phosphorus content (% fresh weight)</i>
Peas	0.44
Palm kernel	0.63
Pollard	1.00
Soya hulls	0.14
Sugar beet	0.1
Grass fresh	0.06
Whole crop wheat fresh	0.09
Whole crop wheat silage	0.09
Forage maize fresh	0.07
Forage maize silage	0.07

### **Amendment of Schedule 3**

16. In the heading of Table 2(b) of Schedule 3 for “under” substitute “over”.

### **Insert Schedule 8**

17. After Schedule 7, insert Schedule 8 set out in the Schedule.

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on xx July 2019



*Name*  
A senior officer of the  
Department of Agriculture, Environment and Rural Affairs

## SCHEDULE

Regulation 17

### “SCHEDULE 8

Regulations 39 and 40

### Conditions applying in relation to a Derogation

1. The following are the conditions for the purposes of regulation 40(1) in relation to the application to land on a grassland holding in any year of livestock manure in excess of the amount specified in regulation 9.

#### **Application of manure and other fertilisers**

2. The amount of livestock manure from grazing livestock applied to land each year on a grassland holding, including by the animals themselves, shall not exceed the amount of manure containing 250kg nitrogen per hectare, subject to the conditions laid down in paragraphs 3 to 7 and regulation 16.

3. The total nitrogen inputs shall neither exceed the foreseeable nutrient demand of the crop nor the maximum fertilisation rate applicable to the grassland holding, established in these Regulations, and shall take into account the supply from the soil.

4. Fertilisation accounts, including information related to the management of nitrogen and phosphorus inputs and the management of soiled water shall be prepared and kept for each grassland holding and submitted to the Department for each calendar year by 1st March of the following calendar year.

5. Periodic sampling and analyses of the soil with respect to nitrogen and phosphorus shall be performed by each grassland holding, at least every four years for each homogeneous area of grassland, with regard to crop rotation and soil characteristics.

6. Livestock manure shall not be spread in the autumn before grass cultivation.

7. For each grassland holding, the controller shall ensure that the phosphorus balance, calculated in accordance with paragraph 1 of the Schedule 2 and Tables 2 and 7 of that Schedule, does not exceed a surplus of 10kg phosphorus per hectare per year.

8. At least 50% of slurry produced on the holding shall be applied on or before 15th June of each year. Low emission slurry spreading equipment shall be used for any slurry applications after 15th June of each year.

#### **Condition regarding land management**

9. Temporary grassland shall be ploughed in spring.

10. Ploughed grass on all soil types shall be followed immediately by a crop with high nitrogen demand.

11. Crop rotation shall not include leguminous or other plants fixing atmospheric nitrogen. However, crop rotation may include clover in grassland with less than 50% clover and other leguminous plants that are undersown with grass.

#### **Definitions**

12. In this Schedule—

- (a) “autumn” means the months of September, October and November;
- (b) “fertilisation account” means the nutrient balance based on the real use and uptake of nutrients;
- (c) “low emission slurry spreading equipment” means equipment which is used to spread slurry by bandspreading, dribble bar, trailing hose, trailing shoe, soil incorporation or soil injection methods;
- (d) “spring” means the months of March, April and May.”.

## **EXPLANATORY NOTE**

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

These Regulations amend the Nutrient Action Programme Regulations (Northern Ireland) 2019 (the principal regulations), following the Commission Decision 2019/xxxx, granting approval to operate a derogation in accordance with paragraph 2 of Annex III to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources.

Regulation 4 contains additional definitions for derogated holdings.

Regulation 5 provides that a derogated holding is excluded from the 170 kg N/ha/year, limit of livestock manure.

Regulation 6 makes an amendment about the application of anaerobic digestate resulting from biodegradable waste.

Regulation 7 provides that certain application limits have effect from 1st January 2020.

Regulation 8 adds a requirement in relation to a fertilisation plan for a derogated holding.

Regulations 9 and 16 correct drafting errors.

Regulation 10 amends requirements for records for a derogated holding.

Regulations 11 and 12 contain consequential amendments.

Regulation 13 makes an amendment about reviews.

Regulations 14 inserts provisions that prescribe the application and authorisation of grassland holdings for a derogation from the measure governing the limits on land application of livestock manure, as provided for in paragraph 2(b) of Annex III of the Directive.

Regulation 15 inserts a provision about phosphorus balance for derogated holdings.

Regulation 17 inserts a new Schedule 8 setting out the conditions applying to a derogation.