

Groundwater (Water Framework Directive) Direction 2006

The Secretary of State and, with the agreement of the Secretary of State to the extent that there is any effect in England or those parts of Wales which are within the catchment areas of the rivers Dee, Wye and Severn, the National Assembly for Wales, in exercise of the powers conferred by section 40(2) of the Environment Act 1995^(a) and now vested in them^(b), hereby give the following Direction to the Environment Agency for the implementation of Article 17(4) of Directive 2000/60/EC^(c):

Citation and commencement

1. This Direction may be cited as the Groundwater (Water Framework Directive) Direction 2006 and shall come into force on 15th March 2006.

Interpretation

2.—(1) In this Direction—

“the Agency” means the Environment Agency;

“Council text” means the draft Directive dated 9th November 2005 a copy of which is annexed to this Direction, being the common position adopted by the Council of the European Union with a view to the adoption of a Directive of the European Parliament and of the Council on the protection of groundwater against pollution;

“the Northumbria River Basin District” means the area identified by regulation 3(1) of the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003^(d);

“the relevant authority” means—

- (a) in relation to a threshold value applying to a body of groundwater wholly in England or partly in England and partly in Scotland, the Secretary of State;
- (b) in relation to a threshold value applying to a body of groundwater wholly in Wales, the National Assembly for Wales;
- (c) in relation to a threshold value applying to a body of groundwater partly in England and partly in Wales, the Secretary of State and the National Assembly for Wales.

“river basin district” means—

- (a) an area identified by regulation 4(1) of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003^(e), being the main unit for the management of river basins for the purposes of the Water Framework Directive and being made up of a river basin or neighbouring river basins, together with associated groundwater, transitional waters and coastal water;
- (b) the Northumbria River Basin District; or
- (c) the Solway Tweed River Basin District;

“Scottish Ministers” has the meaning given by section 127 of the Scotland Act 1998^(f);

(a) 1995 c. 25.

(b) By the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1, the Secretary of State and the National Assembly for Wales enjoy concurrent power under section 40 in relation to the Agency as a cross-border body. Exercise by the Assembly of that power is subject to the agreement of the Secretary of State in relation to matters including water resources management and control of pollution of water resources, where such exercise would have any effect in England or in those parts of Wales which are within the catchment areas of the rivers Dee, Wye or Severn.

(c) 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).

(d) S.I. 2003/3245.

(e) S.I. 2003/3242.

(f) 1998 c.46.

“SEPA” means the Scottish Environment Protection Agency;

“the Solway Tweed River Basin District” means the area identified by regulation 3(1) of the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004(a);

“starting point” in relation to trend reversal means the point at which measures must be implemented to reverse a significant and sustained upward trend in pollutant concentrations or indicators of pollution identified under paragraph 6(1)(a); and

“the Water Framework 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.

(2) Any expression used in both this Direction and the Water Framework Directive and not otherwise defined in this Direction has the same meaning for the purposes of this Direction as it has for the purposes of that Directive.

(3) References in the Council text to “threshold values”, “threshold values established in accordance with Article 3 and Annex II” and “threshold values established pursuant to Article 3” shall be taken to be references to threshold values approved by the relevant authority.

General duty in the Solway Tweed River Basin District

3. In discharging its functions in compliance with this Direction in relation to the Solway Tweed River Basin District the Environment Agency shall co-operate with SEPA, in relation to the exercise by SEPA of corresponding functions, so as to secure that the assessment of groundwater chemical status, identification of significant and sustained upward trends and determination of the starting point for trend reversal is co-ordinated for the whole of that river basin district.

Threshold values

4.—(1) The Agency must by 22nd June 2008 prepare and submit to the relevant authority for approval proposals for threshold values for pollutants, groups of pollutants or indicators of pollution that have been identified as contributing to the condition of bodies of groundwater wholly or partly in England or Wales being such as to require their characterisation as being at risk of failing to achieve good groundwater chemical status.

(2) Threshold values must be derived in accordance with Parts A and B of Annex II to the Council text, on the basis of methodologies approved by the relevant authority.

(3) Where new information indicates that, in order to protect human health and the environment, a threshold value should be set for a substance or an approved threshold value should be changed, the Agency must prepare and submit to the relevant authority for its approval proposals for new or revised threshold values.

(4) Where in the opinion of the Agency a body of groundwater is no longer at risk from a pollutant, group of pollutants or indicator of pollution, the Agency may prepare and submit to the relevant authority for its approval proposals for the revocation of the threshold value for that pollutant, group of pollutants or indicator of pollution.

(5) The Agency must by 22nd December 2006 prepare and submit to the relevant authority for its approval proposals for—

- (a) methodologies to be applied for the purposes of deriving threshold values; and
- (b) the consultation measures it is to take in connection with the preparation of proposals under sub-paragraphs (1), (3) and (4).

(6) The Agency must supply to Scottish Ministers copies of proposals submitted to the Secretary of State under this paragraph relating to threshold values for bodies of groundwater associated with the Solway Tweed River Basin District.

(a) S.I. 2004/99.

(7) The Agency must by 22nd December 2008 prepare and thereafter keep up to date a list of approved threshold values.

(8) The Agency must apply the threshold values approved by the relevant authority for the purposes of assessing groundwater chemical status and determining the starting point for trend reversal.

Criteria for assessing groundwater chemical status

5.—(1) The Agency must apply the approach in the relevant provisions of the Council text when assessing groundwater chemical status.

(2) The relevant provisions of the Council text for the purposes of sub-paragraph (1) are—

- (a) Article 4(1) and (2); and
- (b) paragraphs 1 to 4 of Annex III.

Significant and sustained upward trends and the starting point for trend reversal

6.—(1) Subject to sub-paragraph (8), for the purposes of giving effect to paragraphs 2.4.4 and 2.4.5 of Annex V to the Water Framework Directive, the Agency must, in relation to each body or group of bodies of groundwater that it has characterised as being at risk of failing to meet the objectives under Article 4 of that Directive, by 22nd December 2008—

- (a) identify any significant and sustained upward trend in pollutant concentrations or indicators of pollution; and
- (b) determine the starting point for reversal of each trend so identified.

(2) A body of groundwater must be treated as being subject to a significant and sustained upward trend where it is subject to a statistically significant increase of concentrations of a pollutant, group of pollutants or indicator of pollution, which presents a significant environmental risk.

(3) The Agency must base the assessment of whether a body of groundwater is subject to a significant and sustained upward trend on information from the sources specified in sub-paragraph (4), assessed in accordance with paragraph 2(c) and (d) of Part A of Annex IV to the Council text.

(4) The sources mentioned in sub-paragraph (3) are—

- (a) monitoring programmes for groundwater—
 - (i) established under the provisions specified in sub-paragraph (9); and
 - (ii) designed in accordance with the requirements of those provisions and paragraphs 1 and 2(a) and (b) of Part A of Annex IV to the Council text; and
- (b) for the purposes of identifying trends for the first river basin management plan, relevant data gathered before the start of the monitoring programmes.

(5) The Agency must carry out an additional trend assessment in the circumstances described in Article 5(5) of the Council text in order to verify that a plume of pollution from a contaminated site does not—

- (a) expand;
- (b) cause a deterioration in the chemical status of a body or group of bodies of groundwater; or
- (c) present a risk to human health or the environment.

(6) The starting point for trend reversal must be determined in accordance with Article 5(3) and paragraph 1 of Part B of Annex IV to the Council text.

(7) On each sixth anniversary of 22nd December 2008, the Agency must review and where necessary revise its determination made under sub-paragraph (1) or, where that determination has since that date been reviewed and revised under this sub-paragraph, made or part made under this sub-paragraph.

(8) In relation to pollutants or indicators of pollution for which insufficient information is available to identify trends and determine starting points for trend reversal by 22nd December 2008, the Agency must comply with sub-paragraph (1) as soon as possible after that date.

(9) The provisions specified in this sub-paragraph are—

- (a) in relation to the Solway Tweed River Basin District, regulation 2(1) and paragraph 5 of Schedule 1 to the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004;
- (b) in relation to any other river basin district, regulation 9 of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003(a).

Information to be included in a river basin management plan

7.—(1) The Agency must ensure each river basin management plan and revised river basin management plan it submits under the provisions specified in sub-paragraph (2) includes, in relation to the river basin district—

- (a) details of approved threshold values together with the information specified in Part C of Annex II to the Council text;
- (b) in the case of a revised river basin management plan, details of any applicable changes to the list of threshold values since the date of publication of the previous version of the plan;
- (c) a summary of each assessment undertaken for the purposes of determining groundwater chemical status, including an explanation as to the manner in which exceedences of groundwater quality standards or threshold values at individual monitoring points have been taken into account;
- (d) a summary of the information specified in Article 5(4)(a) of the Council text;
- (e) details of each starting point for trend reversal determined under paragraph 6(1)(b) or, as the case may be, paragraph 6(7), together with a summary of the reasons for each determination; and
- (f) a summary of the results of any additional trend assessments carried out under paragraph 6(5).

(2) The provisions specified in this sub-paragraph are—

- (a) in relation to the Solway Tweed River Basin District, regulation 2(1) and paragraph 7(1) of Schedule 1 to the Water Environment (Water Framework Directive) Solway Tweed River Basin District) Regulations 2004;
- (b) in relation to any other river basin district, regulation 11(1) of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003(b).

Signed on behalf of the National Assembly for Wales,

Name

[March 2006]

The Presiding Officer of the National Assembly

Signed by authority of the Secretary of State,

Name

(a) Modified so as to apply to the Northumbria River Basin District by regulation 5(1) of S.I. 2003/3245.

(b) Modified so as to apply to the Northumbria River Basin District by regulations 5(1) and 5(2) of S.I. 2003/3245.

[March 2006]

A Senior Civil Servant in the
Department for Environment, Food and Rural Affairs