



2026/67

6.1.2026

COMMISSION IMPLEMENTING DECISION (EU) 2026/67

of 22 December 2025

amending Implementing Decision (EU) 2022/696 granting a derogation requested by Ireland pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources

(notified under document C(2025) 9263)

(only the English and the Irish texts are authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources ⁽¹⁾, and in particular point 2, third subparagraph, of Annex III thereto,

Whereas:

- (1) Commission Implementing Decision (EU) 2022/696 ⁽²⁾ granted Ireland a derogation pursuant to Directive 91/676/EEC, allowing Ireland to apply livestock manure containing up to 250 kg nitrogen per hectare per year on farms with at least 80 % grassland. Pursuant to Article 12(3) of that Implementing Decision, as from 1 January 2024, the amount of manure that may be applied to the land is 220 kg nitrogen per hectare per year in areas draining into polluted waters or waters at risk of pollution or areas with worsening trends. Implementing Decision (EU) 2022/696 applies until 31 December 2025.
- (2) On 25 September 2025, Ireland communicated to the Commission its request for a new derogation and, in view of that, to present a request containing a justification on the basis of the objective criteria specified in point 2, third subparagraph, of Annex III to Directive 91/676/EEC.
- (3) Requests for a derogation under Directive 91/676/EEC should be justified on the basis of the objective criteria specified in point 2, third paragraph of Annex III to that Directive and be underpinned by the necessary environmental assessments under other Union law, in particular those required pursuant to Council Directive 92/43/EEC ⁽³⁾, and Directives 2000/60/EC ⁽⁴⁾ and 2001/42/EC of the European Parliament and of the Council ⁽⁵⁾.
- (4) The impacts of a new derogation and the new Nitrate Action Programme are also to be assessed in the context of Directive 92/43/EEC. In this regard, the judgment of the Court of Justice of the European Union (CJEU) in case C-293/17 ⁽⁶⁾, providing interpretation of Article 6(3) of that Directive, requires that projects involving the application of fertilisers on land and the grazing of cattle are subject to an appropriate assessment of its implications on the sites concerned, unless objective circumstances make it possible to rule out with certainty any possibility that those projects, individually or in combination with other projects, may significantly affect those sites.

⁽¹⁾ OJ L 375, 31.12.1991, p. 1, ELI: <http://data.europa.eu/eli/dir/1991/676/oj>.

⁽²⁾ Commission Implementing Decision (EU) 2022/696 of 29 April 2022 granting a derogation requested by Ireland pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 129, 3.5.2022, p. 37, ELI: http://data.europa.eu/eli/dec_impl/2022/696/oj).

⁽³⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7, ELI: <http://data.europa.eu/eli/dir/1992/43/oj>).

⁽⁴⁾ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327, 22.12.2000, p. 1, ELI: <http://data.europa.eu/eli/dir/2000/60/oj>).

⁽⁵⁾ Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, pp. 30, ELI: <http://data.europa.eu/eli/dir/2001/42/oj>).

⁽⁶⁾ Judgment of the Court of 7 November 2018 in *Coöperatie Mobilisatie for the Environment and Others*, C-293/17 and C-294/17, ECLI:EU:C:2018:882.

- (5) At the same time, pending case C-531/24 (⁽⁷⁾), referred to the CJEU by the High Court of Ireland on 1 August 2024, raises questions on the interpretation of Directive 91/676/EEC with regard to the requirements to be met under Directives 92/43/EEC, 2000/60/EC, and 2001/42/EC in connection to the granting of derogations under Directive 91/676/EEC. In particular, these questions concern the sufficiency and adequacy of the assessments carried out with regard to Ireland's 2022-2025 Nitrate Action Programme and, accordingly, the validity of the national derogations granted in accordance with that programme to determine their environmental impacts on protected habitats and species. The questions raised in that case also concern the application of Article 6(3) of Directive 92/43/EEC and whether the derogations would not cause a deterioration of the status of a body of surface water or jeopardise the attainment of good surface water status or of good ecological potential and good surface water chemical status in line with Directive 2000/60/EC.
- (6) The judgment in case C-531/24 is not likely to be delivered before the last quarter of 2025.
- (7) The interpretation on the specific aspects of the relevant instruments of Union environmental law sought from the CJEU in case C-531/24 is critical to enable Ireland to identify and carry out the necessary assessments and eventually present a complete and thorough derogation request containing a justification on the basis of the objective criteria specified in point 2, third subparagraph, of Annex III to Directive 91/676/EEC and to ensure compliance with other Union law. Guidance from the CJEU may also have direct impact on the parameters that the Commission needs to assess and take into account when interpreting and applying those instruments.
- (8) Indeed, on 31 July 2025, Ireland expressed its commitment to complete the legally required assessments on the environmental effects of a potential new derogation as required by Union law. In doing so, Ireland will need to take account of the interpretation provided by the CJEU in case C-531/24.
- (9) Ireland will need to finalise the assessments of the environmental effects of a potential new derogation as required by Union law by 31 December 2028 at the latest in order for their conclusions to be reflected in the application of Directive 91/676/EEC and the national transposing legislation, including for presenting a complete and thorough request for any future derogation based on all the necessary assessments in line with the legal guidance from the Court.
- (10) In the meantime, it is appropriate for this Decision extending the current derogation to provide for certain additional conditions to be applied for derogation farms in catchments with persistent and significant challenges as part of a precautionary approach. Those additional conditions may be reviewed based on the conclusions of Ireland's assessments.
- (11) The data Ireland provided in the context of the reporting obligation set out in Article 10 of Directive 91/676/EEC show that, for the 2020-2023 period, the waters were generally of good quality. In this regard, 99 % of all monitoring stations for groundwater in Ireland had mean nitrate concentrations below 50 mg/l, and 78,5 % of those monitoring stations had mean nitrate concentrations below 25 mg/l. All monitoring stations for surface water in Ireland had mean nitrate concentrations below 50 mg/l, and 99,1 % of those monitoring stations had mean nitrate concentrations below 25 mg/l. Furthermore, 27,5 % of the surface water monitoring stations reported eutrophication or risk of eutrophication. Regarding trends for groundwater, 29,7 % of groundwater monitoring stations reported an increase of nitrate concentrations, 56,4 % reported stable trends and 13,8 % reported decreasing trends. As regards trends for surface water, 14,5 % of surface water monitoring stations reported an increase of nitrate concentrations, 74,9 % reported stable trends and 10,6 % reported decreasing trends.
- (12) Data published in August 2025 by the Irish Environmental Protection Agency for the 2022-2024 period on the nitrogen load reductions required to achieve environmental objectives in major Irish rivers show that the gap to target remains very high for the Barrow (38 %), the Slaney (31 %) and the Nore (16 %) and has increased for the Blackwater (from 6 to 11 %) compared to the 2017-2019 period.

(⁽⁷⁾) Reference for a preliminary ruling, *An Taisce*, C-531/24 (OJ C, C/2024/6412, 4.11.2024, ELI: <http://data.europa.eu/eli/C/2024/6412/oj>).

- (13) Ireland's total production of manure from livestock has increased in recent years. Cattle, pig and sheep manure production increased respectively by 2 %, 2 % and 8 % from the 2016-2019 period to the 2020-2023 period. The area of utilised agricultural land decreased by 3,4 % in the 2020-2023 period compared to the 2016-2019 period, and the average nitrogen loading from livestock manure in the 2020-2023 period was 120 kg nitrogen/ha, compared to 113 kg nitrogen/ha in the 2016-2019 period. Mineral nitrogen fertiliser application per hectare of utilised agricultural land decreased by 2,2 % in the 2020-2023 period compared to the 2016-2019 period.
- (14) On 6 September 2024, Ireland notified to the Commission the publication of its third river basin management plan in accordance with Article 15 of Directive 2000/60/EC. That plan sets out a roadmap to restore Ireland's waterbodies to 'good' status or better and to protect them. The Commission is currently in the process of analysing that plan.
- (15) On 8 August 2025, in accordance with Article 17 of Directive 92/43/EEC, Ireland sent the Commission its report on the implementation of the measures taken under that Directive. That report included information concerning the conservation measures referred to in Article 6(1) of that Directive and an evaluation of the impact of the conservation measures on the conservation status of the natural habitat types listed in Annex I to that Directive and the species listed in Annex II to that Directive as well as the main results of the surveillance referred to in Article 11 of that Directive.
- (16) As a result of the mid-term review carried out in 2023 in accordance with Article 12 of Implementing Decision (EU) 2022/696, in 2025, Ireland reinforced its Nitrate Action Programme pursuant to *European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations 2025*⁽⁸⁾, including, by reducing fertiliser allowances. Those additional reinforced regulatory measures should be reflected in Articles 6 to 9 of Implementing Decision (EU) 2022/696. Furthermore, Ireland also introduced a EUR 60 million Farming for Water support scheme for farmers to address water-related challenges in agriculture. That scheme includes financing for measures at farms to reduce nitrate leaching and soil erosion.
- (17) On 8 December 2025 Ireland adopted a new Nitrate Action Programme⁽⁹⁾ which reflects the requirements set out in Articles 4 to 12 of Implementing Decision (EU) 2022/696 and also envisages additional and reinforced measures to comply with the objectives of Directive 91/676/EEC.
- (18) In the new Nitrate Action Programme Ireland envisages to increase the required slurry and soiled water storage capacity on livestock farms as of 2028. This aims to reduce the risk of point source losses and the risk of nutrient loss from land and allow targeted application of nutrients when required by growing crops. Those measures reflect current knowledge of advancements made in dairy breeding and associated farming systems, which indicates that the volume of slurry produced by the average dairy cow in Ireland is 21 % higher than existing regulatory values and the volume of soiled water produced from a dairy cow is 43 % higher.
- (19) Ireland also includes additional measures to improve the nutrient distribution on fragmented dairy farms by applying a lower nitrate allowance where it cannot be demonstrated that livestock manure is being spread across all of a farm's lands instead of just on certain areas. On fragmented farms, milking cows predominantly graze on the land that can be accessed from the milking parlour. Those lands may then receive a higher proportion of the farm's livestock manure nitrogen due to their close proximity to the farmyard. While a farm's nutrient allowance is based on the total land area being farmed, the nutrient distribution on fragmented farms might not extend to land further away from the farmyard for practical and economic reasons.
- (20) The additional measures on storage capacity and improvements in the distribution of nutrients on fragmented farms should be reflected in the conditions set out in Implementing Decision (EU) 2022/696.

⁽⁸⁾ Statutory Instrument No 42 of 2025.

⁽⁹⁾ Statutory Instrument No 588 of 2025.

- (21) This Decision is therefore adopted in the framework of the Nitrate Action Programme pursuant to the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 ⁽¹⁰⁾ as amended in 2025, and in the context of the Irish Action Programme as implemented in Statutory Instrument No 588 of 2025.
- (22) The Nitrate Action Programme adopted in 2022 brought about a 10 % reduction in the chemical nitrogen allowances for derogation farms in 2022 and an additional 5 % reduction in 2025. However, the chemical nitrogen allowance remains higher for derogation farms than for other farms. A recent Irish study published by Teagasc in September 2025 concluded that the 5 % reduction in the maximum chemical nitrogen allowance for derogation farms resulted in a 2,4 – 3,3 % decrease in modelled nitrate leaching. The reduction was highest for the farms with the highest chemical nitrogen allowances. In catchments with persistent and significant challenges in reaching load reduction targets for nitrogen, for 2028 a further reduction in the chemical nitrogen allowances on derogation farms is therefore appropriate as a precautionary measure.
- (23) Restricting the application of chemical and organic fertilisers along open surface waters is one of the main measures under Directive 91/676/EEC. Unfertilised buffer strips increase the nutrient residence time in the field as a whole. This increases the possibility both of the soil retaining phosphorus and of nitrates denitrifying. The new Nitrate Action Programme prohibits the application of chemical fertilisers within 3 m of surface waters while maintaining the restriction on the application of organic fertilizer or soiled water within 5 m of surface waters and 10 m where the land has an average incline greater than 10 % sloping towards water. On derogation farms, the inputs of both manure and chemical fertilizers are higher than on other farms. For 2028, in catchments with persistent and significant challenges in reaching load reduction targets for nitrogen, the implementation of a wider buffer on derogation farms is therefore appropriate as a precautionary measure.
- (24) The additional conditions on chemical nitrogen allowance and buffers along surface waters for derogation farms reflect a risk based and targeted approach for the catchments with persistent and significant challenges with nitrogen emissions and should also be reflected in Implementing Decision (EU) 2022/696.
- (25) The conditions on chemical fertiliser reduction and buffer zones for derogation farms in catchments with persistent and significant challenges with nitrogen emissions should apply in addition to the conditions applicable to derogation farms set out in Implementing Decision (EU) 2022/696, including those inserted through this Decision. Particularly important are the requirements on liming, registration in the Irish fertilizer database, stocking rates outside a 30 km radius, calculation of nutrient balance, mandatory training, specific rules on biodiversity-friendly maintenance of hedgerows, and protein content in feed concentrates.
- (26) The national programme of administrative controls, inspections and sanctions regarding compliance by grassland farms covered by authorisation with the conditions set out in Articles 5 to 9 of Implementing Decision (EU) 2022/696 should be extended to cover the additional conditions set out in Article 9a to this Decision.
- (27) Given the pending case C-531/24, referred to the CJEU by the High Court of Ireland, which will further clarify the requirements to be complied with by the Irish authorities under Directives 92/43/EEC and 2000/60/EC in the context of a derogation request under Annex III to Directive 91/676/EEC, it may be appropriate for the conditions set out in this Decision to be reviewed following the preliminary ruling of the CJEU in that case.
- (28) Taking into account the specific circumstances of the case and the need to ensure legal certainty and the robustness of the next steps, it is appropriate and prudent to exceptionally extend the application of Implementing Decision (EU) 2022/696 for a limited period of time of three years, subject to additional conditions, so that the legal framework for granting a new derogation to Ireland can be clarified and Ireland is accordingly allowed to adjust the assessments and its legal framework to the guidance to be provided by the CJEU.

⁽¹⁰⁾ Statutory Instrument No 113 of 2022.

- (29) Implementing Decision (EU) 2022/696 should therefore be amended accordingly.
- (30) The measures provided for in this Decision are in accordance with the opinion of the committee established by Article 9 of Directive 91/676/EEC,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU) 2022/696 is amended as follows:

- (1) the following Article 3a is inserted:

‘Article 3a

General conditions for Ireland from 2026 to 2028

1. Ireland shall as soon as possible and at the latest by the end of 2028 complete the environmental assessments pursuant to Article 6(2) and (3) of Directive 92/43/EEC and Article 4(1) of Directive 2000/60/EC, taking into account the judgment of the Court of Justice of the European Union in case C-531/24, and, where feasible within the same timeframe, put in place mitigation measures, *inter alia*, through the Irish Action Programme to ensure that the authorisations do not undermine the attainment of the objectives of those directives.

2. Ireland shall review, as appropriate, the conditions in the Irish Nitrate Action Programme as soon as possible, and at the latest by the end of 2028, after the judgment of the Court of Justice of the European Union in case C-531/24.

3. As of 2026, Ireland shall implement measures to ensure that on all dairy farms with lands distributed over a wider area and with a very high stocking rate on the land closest to the farmyard, referred to as the milking platform, cattle slurry produced on the holding is applied outside the milking platform and across the farms lands or otherwise a lower chemical fertiliser allowance applies.

4. As of 1 October 2028 at the latest, Ireland shall increase the required storage capacity for livestock manure and soiled water on all dairy farms in line with current knowledge reflecting developments in dairy breeding and associated farming systems.’

- (2) in Article 5, the following subparagraph is added:

‘As of 1 January 2028, in addition to the requirements set out in the first subparagraph, authorisations in areas draining into the Barrow, Slaney, Nore and Blackwater rivers and their tributaries shall be granted subject to the conditions laid down in Article 9a.’

- (3) Article 6 is amended as follows:

- (a) in paragraph 3, the third and fourth subparagraphs are replaced by the following:

‘A liming programme shall be adopted for the farm based on a nutrient management plan and the soil analysis results. Where the lime requirement outlined in the soil analysis report does not exceed 5 tonnes per hectare, the full lime requirement shall be applied within two years of the date of issue of that report. Where the lime requirement outlined in the soil analysis report exceeds 5 tonnes per hectare, at least 5 tonnes of lime shall be applied per hectare within two years of the date of issue of that report.

The grassland farm shall be registered in Ireland’s national fertiliser database and shall comply in full with Statutory Instrument No 378 of 2023, *National Fertiliser Database Regulations 2023*. The grassland farm shall also declare the closing stocks of chemical fertiliser and lime on their holding at 23:59 on 14 September each year and through a declaration of “Nil Closing Stock” where appropriate.’;

- (b) the following paragraph 7 is added:

‘7. The stocking rate allowance for land located outside a 30 km radius from the grassland farm’s hub shall not exceed 170 kg livestock manure nitrogen per hectare per year, unless the competent authority finds that there is demonstrable evidence that that land is being farmed at a stocking rate greater than 170 kg livestock manure nitrogen per hectare per year.’;

- (4) in Article 8, the following paragraphs 6, 7 and 8 are added:

‘6. No later than the end of the second year availing of the authorisation subject to this Decision, the grassland farm shall:

- (a) have its nutrient balance calculated using appropriate software technology accepted by the competent authority;
- (b) complete a programme of training in grassland management prescribed by the competent authority.

7. The grass produced annually on the grassland farm shall be recorded with at least 20 grass measurements for each grassland parcel each year using appropriate software technology as accepted by the competent authority. A minimum of five days shall be observed between grass measurements.

8. The grassland farm shall adopt at least one of the following measures:

- (a) when hedge cutting, at least one Whitethorn/Blackthorn tree shall be retained within each hedgerow and allowed to mature;
- (b) hedgerows shall be maintained on a minimum three-year cycle and cut in rotation to ensure that some areas of hedgerows on the farm will flower and produce berries every year.’;

- (5) Article 9 is replaced by the following:

‘Article 9

Condition for livestock feeding

A maximum crude protein content of 14 % shall be allowed in concentrate feed fed to dairy cows and other cattle aged two years old and over on grass between 15 April and 30 September. Records of the crude protein content of concentrate feed shall be kept and made available for inspection by the competent authority on request.’;

- (6) the following Article 9a is inserted:

‘Article 9a

Additional conditions for granting authorisations in 2028

1. From 1 January 2028, the annual maximum grassland fertilisation rate from chemical fertilisers on holdings with an authorisation shall be reduced so that as of 2028 the rates are 5 % lower than the rates published in the Irish Action Programme as implemented in Statutory Instrument No 42 of 2025, European Union (Good Agricultural Practice for Protection of Waters) Regulation 2022, as amended. If a revision of the fertilisation norms sets lower values, those lower values shall apply.

2. From 1 January 2028, on holdings with an authorisation, chemical fertilisers shall not be applied to grassland within 4 meters of any surface waters, unless the Irish Action Programme sets out stricter requirements, in which case those stricter requirements shall apply. From 1 January 2028, organic fertilisers, including manure and soiled water, shall not be applied to land in the same areas within 8 meters along any surface water and within 20 meters of any surface waters where the land has an average incline greater than 20 % towards the water, unless the Irish Action Programme sets out stricter requirements, in which case those stricter requirements shall apply.’;

- (7) Article 11 is replaced by the following:

‘Article 11

Controls

1. The competent authorities shall carry out administrative controls in respect of all applications for authorisation to assess compliance with the conditions set out in Articles 6 to 9a. Where it is demonstrated that those conditions are not fulfilled, the application shall be refused and the applicant shall be informed of the reasons for the refusal. Every year, the competent authorities shall carry out administrative controls for at least 10 % of the grassland farms covered by authorisations with regard to land use, livestock number and type and manure production and export.

2. The competent authorities shall establish a programme for field inspections of grassland farms covered by authorisations on a risk basis and with appropriate frequency, taking account of the results of controls of the previous years and the results of general random controls of legislation transposing Directive 91/676/EEC and any other information that might indicate non-compliance with the conditions set out in Articles 6 to 9a. Every year, field inspections shall be carried out in at least 10 % of the grassland farms covered by authorisations to assess compliance with the conditions set out in Articles 6 to 9a.

3. Where it is established, in any year, that a grassland farm covered by an authorisation does not fulfil the conditions set out in Articles 6 to 9a, the holder of the authorisation shall be sanctioned in accordance with national rules and shall not be eligible for an authorisation the following year.

4. The competent authorities shall be granted the necessary powers and means to verify compliance with the conditions for an authorisation granted under this Decision to verify compliance with the conditions set out in Articles 6 to 9a prior to and after granting an authorisation under this Decision.;

(8) in Article 13, first paragraph, the following point (j) is added:

‘(j) progress in carrying out the environmental assessments referred to in Article 3a(1).’;

(9) Article 14 is replaced by the following:

‘This Decision shall apply in the context of the Irish Action Programme as implemented in Statutory Instrument No 113 of 2022, European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022, as amended, and in the context of the Irish Action Programme as implemented in Statutory Instrument No 588 of 2025.

This Decision shall apply until 31 December 2028.’

Article 2

This Decision is addressed to Ireland.

Done at Brussels, 22 December 2025.

For the Commission
Jessika ROSWALL
Member of the Commission