

**EXPLANATORY MEMORANDUM TO**  
**GROUNDWATER (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2009**  
**2009 No. 359**

**Introduction**

1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany SR No. 359 which is laid before the Northern Ireland Assembly.
2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.
3. The rule is due to come into operation on 14 December 2009.

**Purpose**

4. The Statutory Rule implements a technical amendment to the Penalties provision (regulation 29(a)) of the Groundwater Regulations (Northern Ireland) 2009 (the “Principal Regulations”).

**Background**

5. The Groundwater Regulations (Northern Ireland) 2009 were made on 2 July 2009 and came into operation on 10 August 2009. They transposed Directive 2006/118/EC on the protection of groundwater against pollution and deterioration (commonly known as the Groundwater Daughter Directive) in to domestic legislation.
6. The Examiner of Statutory Rules in his First Report for the Session 2009/2010 stated that the Penalties provision (regulation 29(a) of the Principal Regulations) is defectively drafted. He advised that the formula used in regulation 29(a) for a fine in respect of summary conviction is not correct as it is expressed to be a fine “not exceeding level 5 on the standard scale”. The correct formula in a case such as this is a fine “not exceeding the statutory maximum”.
8. The Examiner advised that this be corrected by way of an early amendment.

**Consultation**

9. A consultation on the Principal Regulations ran from 11 February 2009 to 6 May 2009. The overall response was positive and no serious concerns were expressed.
10. The amending Regulations implement a minor technical change to the legislation and so consultation is not required.

**Equality Impact Assessment**

11. A screening analysis of the Principal Regulations indicated there would be no impact in terms of the main groups relevant to the section 75 categories of the Northern Ireland Act 1998.
12. The amending Regulations implement a minor technical change with no change to policy therefore a new Equality Impact Assessment is not required.

### **Regulatory Impact Assessment**

13. A UK wide impact assessment was carried out in 2006 on the Groundwater Daughter Directive. It showed a cost neutral outcome as it does not add any burdens beyond what is already required under the Water Framework Directive (WFD). An updated impact assessment was completed in May 2008 which again showed the impact to be cost neutral.
14. The amending Regulations will have no impact on the previous assessments carried out.

### **Financial Implications**

15. The amending Regulations do not add any burdens beyond what is already required under the WFD.

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

16. The amending Regulations do 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**

17. The amending Regulations do not have any EU implications.

### **Additional Information**

18. The amending Regulations make a minor technical change to the Groundwater Regulations (Northern Ireland) 2009. There is no change to policy.