

EXPLANATORY MEMORANDUM TO

The Private Water Supplies Regulations (Northern Ireland) 2017

S.R. 2017 No. 211

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture, Environment and Rural Affairs (The Department) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of the Rule is to replace and revoke the Private Water Supplies Regulations (Northern Ireland) 2009 (as amended) in order to transpose the provisions of Council Directive (EU) 2015/1787 of 6th October 2015 amending Annexes II and III to Council Directive 98/83/EC on the quality of water intended for human consumption.

3. Background

- 3.1. The Private Water Supplies Regulations (Northern Ireland) 2009 (the 2009 Regulations) were made on 11 December 2009 and came into operation on 18 January 2010. They transposed into domestic legislation Directive 98/83/EC on the quality of water intended for human consumption, in respect of private water supplies. This Directive is commonly known as the "Drinking Water Directive". The objective of this Directive is to protect human health from adverse effects resulting from the contamination of water intended for human consumption.
- 3.2. The principal regulations were amended by the Private Water Supplies (Amendment) Regulations (Northern Ireland) 2010 and the Private Water Supplies (Amendment) Regulations (Northern Ireland) 2015 (in totality referred to as the "amending Regulations").
- 3.3. Council Directive (EU) 2015/1787 (the 2015 Directive) amends Annexes II and III to the Drinking Water Directive. The amendments to the Drinking Water Directive are technical in nature and introduce a more risk based approach to monitoring requirements.
- 3.4. On 23rd June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

- 3.5. The Department is therefore required to transpose the 2015 Directive. In line with the Government's Better Regulation agenda the Department has also taken the opportunity to consolidate and revoke the 2009 Regulations and amending Regulations when making the required legislation to transpose the 2015 Directive. The consolidation includes making minor amendments to remove anomalies and to ensure that the legislation has more clarity and better aligns with the wording in the Drinking Water Directive.

4. Consultation

- 4.1. A consultation on the 2009 Regulations ran from 11 February 2009 to 29 April 2009. The overall response was positive and no serious concerns were expressed.
- 4.2. The Department issued a public consultation on the proposals contained in the new consolidated Regulations on 15 June 2017 until 10 August 2017. Over 200 organisations and individuals were consulted and 4 responses were received. Overall the respondents were supportive of the aims and objectives of the Regulations.
- 4.3. The new consolidated Regulations transpose provisions of the 2015 Directive. The regulations also consolidate the current regulations in respect of private water supplies and make minor amendments to the provisions in the current legislation to remove anomalies, ensure more clarity and better align with the wording in the Drinking Water Directive.
- 4.4. Directive (EU) 2015/1787 intends to better protect human health in relation to private drinking water supplies by making amendments to monitoring requirement provisions so that they are in line with current scientific and technical progress and that there is coherence with other European Union Rules. It also removes unnecessary monitoring burdens as flexibility in monitoring is allowed if a number of conditions are met to ensure human health is protected.

5. Equality Impact

- 5.1. A screening analysis of the 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.

6. Regulatory Impact

- 6.1. A partial Regulatory Impact Assessment was carried out and showed that the benefits of the Regulations outweigh any additional costs to the Department.
- 6.2. It is not considered that the proposed Regulations will have a significant financial impact for private water supply users. The cost to the Department is also not expected to be significant, as flexibility in the monitoring of parameters and the frequency of sampling based on credible risk assessments is allowed if a number of conditions to protect human health are met. It is anticipated that this will counter the cost of more stringent monitoring requirements which may be required.

7. Financial Implications

7.1. The additional financial implications for the Department in implementing these Regulations are not considered likely to be significant. Amendments allow for better and more problem/risk based orientated monitoring of water supplies. There may be a financial impact on the Department due to additional monitoring requirements for those supplies considered at risk and also the amendments introduce potentially more costs due to the requirement for more stringent accredited monitoring methods and standards. For low risk supplies however there is an expected lightening of the regulatory burden and financial costs to the Department as flexibility in the monitoring of parameters and the frequency of sampling is allowed if a number of conditions to protect human health are met. It is anticipated that this will counter the cost of more stringent monitoring requirements and therefore impacts should be low.

8. Section 24 of the Northern Ireland Act 1998

8.1. These Regulations are deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. These regulations help to ensure that Northern Ireland fulfils its obligation with regard to transposition of the 2015 Directive.

10. Parity or Replicatory Measure

10.1. Production of regulations in Scotland and Wales is proceeding along a similar timescale as Northern Ireland with similar amendments being made to their equivalent legislation in order to transpose the 2015 Directive. DEFRA (England) plan to make amending Regulations by January 2018.

11. Additional Information

11.1. Not applicable.