

EXPLANATORY MEMORANDUM TO
THE ENVIRONMENTAL DAMAGE (PREVENTION AND REMEDIATION)
(ENGLAND) (AMENDMENT) REGULATIONS 2015

2015 No. 1391

- 1.** This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 To amend the Environmental Damage (Prevention and Remediation) (England) Regulations 2015 (S.I. 2015/810) (“the principal Regulations), which come into force on 19th July 2015, so as to extend the categories of environmental damage to include damage to marine waters beyond 12 nautical miles from the baselines in Northern Ireland. The Department’s intention in the principal Regulations was that the categories of environmental damage should include damage to marine waters in the whole of the offshore area, but the need to specify the offshore area in relation to Northern Ireland was over-looked. This is a roughly triangular area of sea between the south-eastern corner of Northern Irish territorial waters and the south-western corner of territorial waters adjacent to the Isle of Man. The Regulations also correct two other defects in the principal Regulations.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 In relation to the corrections made by this instrument, the Department has decided that the free issue procedure should be applied, in accordance with paragraph 3.4.13 of the Statutory Instrument Practice. Copies of the instrument will be issued free of charge to all known recipients of the principal Regulations.

4. Legislative Context

4.1 This instrument corrects three defects in the Environmental Damage (Prevention and Remediation) (England) Regulations 2015 (S.I. 2015/810) which come into force on 19th July 2015.

4.2 The instrument being corrected, S.I. 2015/810, re-transposes Directive 2004/35/EC on the environmental liability with regard to the prevention and remedying of environmental damage, that Directive having been amended by Article 38 of Directive 2013/30/EU on safety of offshore oil and gas operations.

5. Territorial Extent and Application

5.1 This instrument extends to the UK, but applies only in relation to England and—
(a) as regards damage to surface water and groundwater, waters up to one nautical mile seaward from the baseline in England;
(b) as regards damage to marine waters, territorial waters and offshore marine waters adjacent to England and offshore marine waters adjacent to the territorial waters of Scotland, Wales and Northern Ireland; and
(c) as regards damage to protected species or natural habitat, anywhere within marine waters up to the limit of the Exclusive Economic Zone and areas of the seabed out to the limits of the continental shelf, including areas adjacent to Northern Ireland.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 This instrument amends the Environmental (Prevention and Remediation) (England) Regulations 2015 (S.I. 2015/810) to correct three defects in those Regulations: the addition of words in the table in regulation 6(1) and in the footnote to that table, the substitution of words in the table in regulation 11(1) and in regulation 10(2).

8. Consultation outcome

8.1 No consultation was carried out for this correcting instrument.

9. Guidance

9.1 Guidance published in relation to the Environmental (Prevention and Remediation) (England) Regulations 2015 (S.I. 2015/810) will be to that instrument as amended by this correcting instrument.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as no, or no significant, impact on the costs of the private, voluntary or public sectors is foreseen.

11. Regulating small business

11.1 The legislation which is corrected by this instrument applies to all operators operating within the scope of the Regulations as set out in paragraph 5 above.

12. Monitoring & review

12.1 A review provision is contained in the principal Regulations.

13. Contact

Eddie Bailey at the Department for Environment, Food and Rural Affairs (tel: 020 7238 6294 or email: eddie.bailey@defra.gsi.gov.uk) can answer any queries regarding the instrument.