

EXPLANATORY MEMORANDUM TO
THE WATER ENVIRONMENT (WATER FRAMEWORK DIRECTIVE) (ENGLAND
AND WALES) REGULATIONS 2017

2017 No. 407

1. Introduction

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

2. Purpose of the instrument

- 2.1 To revoke and replace the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 (“the 2003 Regulations”) which transposed the Water Framework Directive 2000/60/EC (“the WFD”). This serves the dual purpose of consolidating the 2003 Regulations, which had been amended a number of times, and making aspects of the Regulations more detailed and transparent. This is in response to a Reasoned Opinion of the European Commission relating to transposition of the WFD. Further details of the case are in section 7 below.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 The WFD introduced a comprehensive river basin management planning system to protect and improve the ecological and chemical health of our rivers, lakes, estuaries, coastal waters and groundwater. The 2003 Regulations transposed the WFD in England and Wales. A transposition note setting out the detail of the transposition is submitted with this memorandum.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is river basin districts identified under regulation 4, being river basin districts wholly in England, wholly in Wales, or partly in England and partly in Wales.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

- 7.1 The WFD established a strategic framework for protecting and improving the water environment, reflecting and building on practice in the UK at the time it was developed. It came into force in December 2000. Specific environmental objectives and measures for individual bodies of water are identified through a 6-yearly river basin planning process. All key stages in the river basin planning process are subject to stakeholder engagement and extensive public consultation.
- 7.2 The Directive was transposed in 2003 and has been amended several times since, so a consolidation is sensible at this time. In addition, the Department has taken this opportunity to expand the detail of some key aspects of the transposition, in particular to be clearer on the face of the Regulations what the key objectives for water bodies are, the deadlines by which they must be achieved and the exemptions which may be relied on. An additional provision in regulation 3 also explains how regulators are to ensure WFD compliance when making certain regulatory decisions. The changes are in part a response to a Reasoned Opinion from the European Commission which stated its view that the UK had failed to transpose the WFD correctly.
- 7.3 The Reasoned Opinion criticised use of cross-references in the Regulations to provisions of the WFD rather than setting them out fully in the Regulations. This technique enabled the 2003 Regulations to be more concise. The new instrument sets out some of the key provisions more fully for the benefit of the reader, whilst continuing to cross-refer to some parts of the WFD, GWD and EQSD where appropriate.

8. Consultation outcome

- 8.1 A consultation on the instrument has not been carried out. This is because the new Regulations only consolidate the 2003 Regulations and set out more fully the existing provisions without imposing new obligations or changing existing ones.

9. Guidance

- 9.1 Existing guidance relating to the WFD will continue to apply.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 Since the Regulations have no impact on any private or public interest the public or business, an impact assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The Regulations provide for a system of review for all the key obligations, including in particular the six-yearly review of river basin management plans and environment objectives.

13. Contacts

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