

**EXPLANATORY MEMORANDUM TO
THE WATER SUPPLY (MISCELLANEOUS AMENDMENTS) (ENGLAND AND
WALES) REGULATIONS 2010**

2010 No. 996

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.

2. Purpose of the instrument

2.1 To amend the Water Industry Act 1991 and the Drinking Water (Undertakings) (England and Wales) Regulations 2000 (SI 2000/1297) in order to implement aspects of Council Directive 98/83/EC on the quality of water intended for human consumption (“the Directive”).

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

3.1 None.

4. Legislative Context

4.1 The Water Supply (Miscellaneous Amendments) (England and Wales) Regulations 2010 (“the Water Supply (Miscellaneous Amendments) Regulations”) along with the Water Supply Regulations 2010 (for England) and the Water Supply (Water Quality) Regulations 2010 (for Wales) will implement aspects of the Directive in respect of public drinking water supplies. A transposition note is attached in the Annex.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

5.2 Northern Ireland and Scotland will issue separate amendments to their corresponding legislation where required.

6. European Convention on Human Rights

Huw Irranca-Davies, Parliamentary Under Secretary of State for Environment, Food and Rural Affairs has made the following statement regarding Human Rights:

“In my view the provisions of the Water Supply (Miscellaneous Amendments) (England and Wales) Regulations 2010 are compatible with the Convention rights.”

7. Policy background

• *What is being done and why*

7.1 The objective of the Directive is to protect human health from the adverse effects of contamination of water intended for human consumption by ensuring that it is wholesome and clean. To achieve this, the Directive sets standards for drinking water quality and specifies monitoring (sampling and analysis) requirements.

7.2 The Directive has already been implemented for England primarily through the Water Supply (Water Quality) Regulations 2000 (SI 2000/3184) and the Private Water Supplies Regulations 2009 (SI 2009/3101), and for Wales primarily through the Water Supply (Water Quality) Regulations 2001 (SI 2001/3911) and the Private Water Supplies (Wales) Regulations 2010 (SI 2010/66 (w. 16)). The Water Supply (Miscellaneous Amendments) (England and Wales) Regulations further implement the Directive by amending section 19 of the Water Industry Act 1991 to require publication of a summary of the undertaking where the Secretary of State, the Welsh Ministers or the Water Services Regulation Authority accept an undertaking from a water undertaker as an alternative to making an enforcement order. These Regulations also amend the Drinking Water (Undertakings) (England and Wales) Regulations 2000 (SI 2000/1297) to refer to the Directive instead of the earlier Directive 80/778/EC.

7.3 Implementation of the aspects of the Directive referred to above by administrative or non-regulatory means, such as guidance or a code of practice, would not transpose those aspects into national law as required by the Directive.

8. Consultation outcome

8.1 The Drinking Water Inspectorate, on behalf of Defra, undertook a limited consultation lasting one month and involved key stakeholders such as water undertakers, licensed water suppliers, LACORS (Local Authorities Co-ordinators Of Regulatory Services) and local authorities. The amendment will have no impact on the general public and only limited impact on key stakeholders.

9. Guidance

9.1 There is no guidance that accompanies these Regulations but the Water Supply Regulations will be published on the Drinking Water Inspectorate's website (<http://www.dwi.gov.uk/>).

10. Impact

10.1 The amendments to both the Water Industry Act and the Drinking Water (Undertakings) (England and Wales) Regulations do not impact on business, charities or voluntary bodies.

10.2 The amendments to both the Water Industry Act and the Drinking Water (Undertakings) (England and Wales) Regulations do not impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The original legislation applies to small business and these amendments do not change this.

12. Monitoring & review

12.1 There are no plans to review the policy unless amendments are made to the Directive.

13. Contact

Peter Jiggins at the Department of Environment, Food and Rural Affairs, Tel: 020 7238 5897 or email: peter.jiggins@defra.gsi.gov.uk, can answer any queries regarding the instrument.

Transposition Note

| Article | Objectives | Implementation (Regulations) |
|---------|---|---|
| 8. | Remedial Action and Restrictions in Use | |
| 7 | Consumers must be notified where remedial action is taken, unless the failure is trivial. | Regulation 2 implements Article 8.7 by amending section 19(3) of the Water Industry Act 1991 to require the Secretary of State, the Welsh Ministers or the Water services Regulation Authority to publish a summary of the undertaking where they accept an undertaking as an alternative to making an enforcement order. |