

To: Business Committee
From: Carwyn Jones AM
Minister for Environment, Planning and Countryside

EXPLANATORY MEMORANDUM

WATER INDUSTRY, ENGLAND AND WALES

The Water Supply Licence (Prescribed Water Fittings Requirements) Regulations 2005

Summary

The Water Act 2003 amended the Water Industry Act 1991 to require water undertakers in England and Wales to grant licensed water suppliers access to their supply systems under certain conditions, in order to supply water to eligible premises of customers. The draft Regulations are part of the secondary legislation necessary to implement the competition regime in water supply. These Regulations make provisions to prevent actual or likely damage to persons or property, water contamination, waste of water and misuse or undue consumption. The Regulations extend such provisions already applying to water undertakers to include licensed water suppliers.

The Regulations are being made by the National Assembly for Wales in relation to Wales and by the Secretary of State for Environment, Food and Rural Affairs in relation to England.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to The Water Supply Licence (Prescribed Water Fittings Requirements) Regulations 2005, in accordance with Standing Order 25, Section 3.
2. A copy of the Instrument is submitted with this Memorandum.

Enabling Powers

3. The powers enabling these Regulations to be made are contained in sections 66A(6) of the Water Industry Act 1991. These powers have been transferred to the National Assembly for Wales and have, in turn, been delegated to my portfolio as Minister for Environment, Planning and Countryside. These Regulations are being made together by the National Assembly for Wales and the Secretary of State for Environment, Food and Rural Affairs. While it is possible to make Assembly-only Regulations, in this case it is more practical to make them jointly as they simply extend the existing requirements already applying to (cross border) water undertakers and are being taken as part of a package of joint Regulations.

Effect

4. The Water Industry Act 1991, as amended by the Water Act 2003, requires water undertakers to grant licensed water suppliers access to their supply systems under certain conditions in order to supply water to eligible premises of customers. One such condition relates to water fittings. A water undertaker is not required to grant access if there is a contravention of prescribed statutory requirements (imposed by Regulations made under section 74 of the Act) in relation to the water fittings used or to be used in connection with the supply of water to the premises to be supplied by the licensed water supplier or the use of water in those premises.
5. These Regulations prescribe a number of requirements in the Water Supply (Water Fittings) Regulations 1999, which prevent contamination and waste of water supplied by water undertakers or licensed water suppliers. Those requirements are that water fittings must not be installed, connected, arranged or used in such a manner that they are likely to cause waste, misuse, undue consumption or contamination, or erroneous measurement, of the water supplied. In addition, they must be of an appropriate quality and standard and be suitable for the circumstances in which they are used. There are also conditions governing the basis on which they are installed.

Target Implementation

6. It is intended that these Regulations be made on 1 November 2005. The Department for Environment, Food and Rural Affairs (Defra) have timetabled them to be laid in Parliament on 4 November and come into force on 1 December 2005. The Regulations need to be in place at the start of the new competition regime on 1 December 2005.

Financial Implications

7. There are no financial implications for the Assembly arising from these Regulations. Neither will there be additional costs to water suppliers or customers as a result of these Regulations.

Regulatory Appraisal

8. As these Regulations fall outside the definition of Assembly general subordinate legislation in section 58 of the Government of Wales Act 1998, a Regulatory Appraisal is not required.

Consultation

With Stakeholders

9. These Regulations were not subject to specific consultation as they simply extend existing requirements already applying to water undertakers to licensed water suppliers. The wider policy requiring water undertakers to grant licensed water suppliers access to their supply systems under certain conditions was subject to public consultation prior to the introduction of the Water Act 2003. Given the nature of these Regulations, there was no requirement to give water undertakers or licensed water suppliers notice of the intention to make these Regulations.

With Subject Committee

10. These Regulations were notified to the Environment, Planning and Countryside Committee via the list of forthcoming legislation on 6 October 2004 (EPC (2) 09-04 Paper 4 – Annex 1) and have remained ever since. These Regulations were not identified for detailed scrutiny.

Recommended Procedure

11. Subject to the views of Business Committee, I recommend that these Regulations proceed to Plenary under the Accelerated procedure because they are of a very technical nature – one of a set of three current Regulations prescribing technical requirements associated with the implementation of the competition regime in water supply.

Compliance

12. The proposed legislation will (as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 section 120);
- be compatible with the Assembly's scheme for sustainable development (section 121);
- be compatible with Community law (section 106);
- be compatible with the Assembly's human rights legislation (section 107); and
- be compatible with any international obligations binding the UK Government and the Assembly (section 108).

13. The information in this Memorandum has been cleared with the Directorate of Legal Services (DLS) and the Assembly Compliance Officer (ACO).

14. Drafting lawyer: Manon Davies (Ext 1096)

15. Head of Division: June Milligan (Ext 3256)

16. Policy Drafting Official: Patrick Moran (Ext 5629).

CARWYN JONES AM

OCTOBER 2005

MINISTER FOR ENVIRONMENT, PLANNING AND COUNTRYSIDE