

Explanatory Memorandum to

The Water Supply (Water Quality) (Amendment) Regulations (Northern Ireland) 2015

S.R. No. 363

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for Regional Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under articles 107 (1) and (3), 109, 114, and 300 (2)(f) of the Water and Sewerage Services (Northern Ireland) Order 2006 and is subject to the negative resolution procedure.

2. Purpose

2.1. The Statutory Rule will amend existing subordinate legislation relating to water in order to transpose the requirements of the Euratom Directive (2013/51/EURATOM).

2.2. It will amend the sampling regime for a number of radiological water quality standards, known as “parameters” and add an additional parameter (radon). However, the Directive provides for an exemption from the sampling and analysis requirements in respect of radon, tritium and Indicative Dose where the Member State is satisfied on the basis of representative surveys, monitoring data or other reliable information that the respective parametric values will not be exceeded. Where a Member state is satisfied that this is the case it must communicate this decision to the Commission.

2.3. The rule also presents an opportunity to update references in existing subordinate legislation to the Construction Products Directive (Council Directive 89/106/EEC), which has been superseded by the Construction Products Regulation (Regulation 305/2011 Marketing of Construction Products).

3. Background

3.1. The UK must transpose EU Directives within two years of the Directive coming into force. This legislation must be transposed before 28th November 2015.

4. Consultation

4.1. NI Water and the Drinking Water Inspectorate (“DWI”) are the organisations with direct responsibility for ensuring the implementation of drinking water quality legislation in Northern Ireland have been consulted. As the proposed amendments are minor technical changes which would not impact any individual or organisation apart from NI Water and DWI, a period of public consultation is not considered necessary.

5. Equality Impact

5.1. The proposed provisions have been screened for equality impact. No differential impact was identified and a full Equality Impact Assessment was not required.

6. Regulatory Impact

6.1. An Initial Regulatory Impact Assessment was carried out and limited costs for the water undertaker were identified; however there were no additional costs, savings or additional burden on other businesses, charities or the voluntary sector identified as a result of the Rule proposals. As a result no comprehensive Regulatory Impact Assessment was deemed to be necessary.

7. Financial Implications

7.1. No financial estimates can be made in advance of DWI guidance on the regulations, however, given the nature of the water sources from which NI Water extracts water, any costs are likely to be minimal and should be covered by NI Water's existing budgets. Amendments which refer to the Construction Products Regulation instead of the Directive will have no financial implications.

8. Section 24 of the Northern Ireland Act 1998

8.1. The proposed regulations are not incompatible with Convention rights. The regulations are transposing an item of Community law, will not discriminate against any person or group of persons, and do not amend any rights under section 7 of the Northern Ireland Act 1998.

9. EU Implications

9.1. The regulations transpose an EU Directive and also refer to updated EU Regulation on Construction Products. A Transposition Note has been completed.

10. Parity or Replicatory Measure

10.1. The legislation with regard to the transposition of the Euratom Directive is being replicated in other devolved administrations and in England. The other administrations are bringing legislation forward with other Water legislation. Given the time frame of the Water Bill currently being developed it was felt that separate subordinate legislation would be required to ensure that the transposition timetable was met.

11. Additional Information

11.1. Not Applicable

TRANSPOSITION NOTE

DIRECTIVE – EURATOM (2013/51/EURATOM)

The Water Supply (Water Quality) (Amendment) Regulations (Northern Ireland) 2015

These Regulations implement certain obligations in the Euratom Directive (listed below) in relation to the analysis of drinking water for radionuclides.

Article/Annex	Objective	Implementation
Article 4	Requires that an assessment be done as to whether water intended for human consumption in the member state poses a risk to human health.	Includes the ability to reduce the sampling frequency to zero after a suitable risk assessment submitted to the Commission.
Article 5	Requires Member States to set parametric values for the monitoring of radioactive substances in water.	Incorporates the new radon parameter with threshold value, along with values for tritium and Indicative Dose.
Article 6	Sets out sampling frequencies for radon tritium and Indicative Dose.	The new regulation incorporates the sampling frequencies into amendments to the Water Supply (Water Quality) Regulations (Northern Ireland) 2007
Article 7	Requires that when a failure to comply with a parametric value is detected there is an immediate investigation.	This already forms part of the existing legislation. Additional requirements specific to radon and tritium exceedances have been included in the new legislation.

Article 8	Sets transposition date of 28 November 2015	NI transposition expected to meet requirement.
Annex I	Sets out parametric values for Radon, Tritium and Indicative Dose in water intended for human consumption.	New parametric values have been incorporated into new regulation.
Annex II	Outlines general principles and monitoring frequencies for radioactive substances.	Where additional information and guidance is present that does not already form part of the current regulations, they have been included.
Annex III	This annex gives detailed guidance on monitoring of Indicative Dose.	The annex has been included in the new regulations.