

EXPLANATORY MEMORANDUM TO
THE WATER SUPPLY REGULATIONS 2010
2010 No. 991

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 The Water Supply Regulations 2010 (“the Water Supply Regulations”) amend the Water Supply (Water Quality) Regulations 2000 (SI 2000/3184 (for England)) and the Private Water Supplies Regulations 2009 (SI 2009/3101). The Water Supply Regulations will 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 Regulations along with the Water Supply (Miscellaneous Amendments) (England and Wales) Regulations 2010 have been introduced to implement aspects of the Directive in respect of both public and private water supplies. A transposition note is attached in the Annex.

5. **Territorial Extent and Application**

5.1 This instrument applies primarily in England but also applies to the supply of water by any water undertaker (or licensed water supplier) where the water undertaker’s area is mainly in England but partly in Wales.

5.2 Northern Ireland, Scotland and Wales will issue separate amendments to their corresponding Regulations.

6. **European Convention on Human Rights**

As the 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 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). The Water Supply Regulations further implement the Directive in particular in respect of failures of water quality attributable to the domestic distribution system in premises where water is supplied to the public, including schools, hospitals and restaurants. These Regulations also introduce a number of provisions to ensure clear transposition of the Directive and to secure compliance with its requirements in relation to a number of technical issues, for example the need to verify that disinfection treatment is effective.

7.3 Implementation of these aspects of the Directive by administrative or non-regulatory means, such as guidance or a code of practice, would not transpose those aspects into national law and would not achieve the controls and measures needed to monitor and enforce the Directive's requirements.

8. Consultation outcome

8.1 Full consultations were undertaken for the original Regulations, but for the Water Supply Regulations the Drinking Water Inspectorate, on behalf of Defra, undertook a limited consultation lasting one month which involved key stakeholders such as water undertakers, licensed water suppliers, LACORS (Local Authorities Co-ordinators Of Regulatory Services) and local authorities. The amendments will have no direct impact on the general public and only limited impact on key stakeholders.

9. Guidance

9.1 Guidance on the original Regulations and the amendments will be published on the Drinking Water Inspectorate's website (<http://www.dwi.gov.uk/>).

10. Impact

10.1 The impact on business, charities or voluntary bodies was set out in the original Impact Assessments that accompanied the original legislation implementing the Directive (see paragraph 10.3 below).

10.2 The impact on the public sector was set out in the original Impact Assessments that accompanied the original legislation implementing the Directive (see paragraph 10.3 below).

10.3 Impact Assessments were undertaken for both the Water Supply (Water Quality) Regulations 2000 (SI 2000/3184 (for England)) and the Private Water Supplies Regulations 2009 (SI 2009/3101) (a copy of the Impact Assessment for private water supplies is available from <http://www.ialibrary.berr.gov.uk/>). However, no Impact Assessment has been undertaken for the Water Supply Regulations as no material changes to the original impacts are envisaged.

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)
6.	Point of Compliance	
2	Where it is established that non-compliance with parametric values is due to the domestic distribution system or its maintenance in premises, Member States will be deemed to have fulfilled their obligations under Articles 4, 6 and 8.2 except for in premises and establishments where water is supplied to the public such as hospitals, schools and restaurants.	Regulation 6 implements Article 6.2 (in conjunction with Article 8(1) and (2)) by introducing a procedure under new regulation 19A of the Water Supply (Water Quality) Regulations 2000 in respect of failures due to the domestic distribution system in premises where water is supplied to the public.
7.	Monitoring	
1	Requires Member States to take all measures necessary to ensure that regular monitoring is carried out to meet the requirements of the Directive, particularly the parametric values, including samples that are representative of the quality of water consumed throughout the year, to ensure the efficiency of any disinfection treatment is verified and any contamination from disinfection by-products is kept as low as possible without compromising the disinfection.	Regulations 8 and 10 implement the disinfection aspects of Article 7.1 by amending the Water Supply (Water Quality) Regulations 2000 and the Private Water Supply Regulations 2009 in relation to disinfection and include provision for ensuring that disinfection by-products are kept as low as possible without compromising the effectiveness of the disinfection and that the effectiveness of the disinfection process is verified.
8.	Remedial Action and Restrictions in Use	
1	Requires any failure to meet the parametric values set in accordance with Article 5 to be immediately investigated in order to identify the cause.	Regulation 4 amends regulation 18 of the Water Supply (Water Quality) Regulations 2000 to require immediate investigation into the cause of the failure.
6	Requires remedial action to be taken where a failure to meet an indicator parameter value (Annex I, Part C) poses any risk to human health.	Regulation 5 implements Articles 8.6 and 8.7 by amending regulation 19 of

7	Consumers must be notified where remedial action is taken, unless the failure is trivial.	the Water Supply (Water Quality) Regulations 2000 to make the service of a notice on the relevant supplier by the Secretary of State mandatory where there is a failure to meet the specification applicable to an indicator parameter and that failure poses a risk to human health.
9.	Derogations	
1	Member States may allow derogations from the parametric values set out in Annex I, Part B, or in accordance with Article 5.3 up to a maximum value set by them. Providing, however, such derogation does not constitute a potential danger to human health and the supply of water intended for human consumption cannot be maintained by any other reasonable means. A derogation must be for as short time as possible and no more than three years. A second derogation not exceeding three years is permitted following a review, but copies of the review and the grounds for the decision to grant the derogation must be communicated to the Commission.	Regulations 5 and 7 amend regulations 19 and 20 of the Water Supply (Water Quality) Regulations 2000 to remove the power to authorise a departure in respect of the parameters specified in Part II of Table A in Schedule 1 of the Water Supply (Water Quality) Regulations 2000 (Coliform bacteria and <i>E. coli</i>).