

EXPLANATORY MEMORANDUM TO
THE SURFACE WATERS AND WATER RESOURCES (MISCELLANEOUS
REVOCATIONS) REGULATIONS 2015

2015 No. 524

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 purpose of this instrument is to revoke ten redundant sets of regulations relating to surface waters and water resources.

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

3.1 None.

4. Legislative Context

4.1 This instrument will revoke ten sets of regulations relating to surface waters and water resources.

4.2 The suite of four Surface Waters (Dangerous Substances) (Classification) Regulations establishes systems for classifying the quality of inland freshwaters, coastal waters and relevant territorial waters, and set requirements for sampling and analysing such waters, with a view to reducing pollution of those waters by certain substances. The sets of regulations were made to implement various Directives which have now been repealed.

4.3 The Surface Waters (River Ecosystem) (Classification) Regulations 1994 prescribe a system of classification of inland fresh waters to be used in conjunction with a power, under section 83 of the Water Resources Act 1991, to set statutory water quality objectives. This system of classification has been superseded by Directions implementing the Water Framework Directive (2000/60/EC).

4.3 The Surface Waters (Fishlife) (Classification) Regulations 1997 and the two amending sets of regulations prescribe a system for classifying the quality of inland waters needing protection or improvement in order to support fish life. They also set requirements for sampling and analysis of such waters. They implement Directive 78/659/EEC and, later, the Freshwater Fish Directive (Directive 2006/44/EC) which repealed and replaced it. The Freshwater Fish Directive has also been repealed.

4.4 The Surface Waters (Abstraction for Drinking Water) (Classification) Regulations prescribe a system for classifying the quality of inland waters according to their suitability

for abstraction for supply as drinking water. They also set requirements for sampling and analysis of such waters and amended and revoked related legislation. The regulations transpose requirements of the Surface Water Abstraction Directive (75/440/EEC) and Directive 79/869/EEC. Those Directives were repealed by the Water Framework Directive (2000/60/EC). The regulations are therefore redundant because sampling and analysis of inland surface waters intended for drinking water is carried out to an equivalent standard under the following regulations: Water Environment (Water Framework Directive) (England and Wales) Regulations 2003, SI 2003/3242; Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003, SI 2003/3245; Water Environment (Water Framework Directive) (Solway Tweed River Basin District) regulations 2004, SI 2004/99. 4.5 The Water Resources (Succession to Licences) Regulations 1969 confer water abstraction licence rights on those taking over land previously occupied by persons who had licences to abstract water for use on the land. Sections 59A – 59D of the Water Resources Act 1991 now deal with the transfer and apportionment of licences and the transitional reasons for keeping these regulations are now spent, therefore these regulations can now be revoked.

5. Territorial Extent and Application

5.1 These sets of regulations extend to England and Wales. They are made by both the Welsh Ministers and the Secretary of State and will be laid in both the National Assembly for Wales and in Parliament.

5.2 The consent of the Welsh Ministers has been obtained to the exercise of the Secretary of State's powers under section 82 of the Water Resources Act 1991 in relation to the Welsh parts of the catchment areas of the Dee, the Wye and the Severn.

6. European Convention on Human Rights

6.1 The Parliamentary Under Secretary of State for water, forestry, rural affairs and resource management has made the following statement regarding Human Rights:

In my view the provisions of the Surface Waters and Water Resources (Miscellaneous Revocations) Regulations 2015 are compatible with the Convention rights.

7. Policy background

7.1 As part of Defra's commitment to the Red Tape Challenge initiative, a number of sets of regulations were identified as redundant and suitable for revoking. This instrument is being made to revoke ten of these relating to surface waters and water resources.

8. Consultation outcome

8.1 This instrument does not require consultation because all the sets of regulations being revoked are now spent or superseded.

9. Guidance

9.1 No guidance or any other form of publicity is required as this instrument simply revokes redundant legislation.

10. Impact

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

11. Regulating small business

11.1 There is no impact on small businesses as this instrument revokes redundant legislation.

12. Monitoring & review

12.1 No monitoring will be conducted.

13. Contact

Miles Kane-Smith, at the Department for Environment Food and Rural Affairs Tel: 020 7238 5663 or email: miles.kane-smith@defra.gsi.gov.uk can answer any queries regarding the regulations.