

EXPLANATORY MEMORANDUM TO
THE WATER SUPPLY (WATER QUALITY) REGULATIONS 2016
2016 No. 614

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The instrument provides the legislative framework for drinking water quality in England in respect of public supplies provided by water companies and licensed water suppliers. This is water intended for human consumption including cooking, drinking, food preparation and other domestic purposes as well as water used in food production undertakings. The Drinking Water Inspectorate, acting on behalf of the Secretary of State, enforces the legislation.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 This instrument revokes and replaces the Water Supply (Water Quality) Regulations 2000 (as amended) (S.I 2000/3184) (“the 2000 Regulations”). The 2000 Regulations transposed Council Directive 98/83/EC on the quality of water intended for human consumption. They also supplement the provisions set out in Chapter 3 of the Water Industry Act 1991. This instrument clarifies and consolidates the content from the 2000 regulations, incorporates new EU monitoring requirements for radioactive substances, in particular radon and makes minor amendments to make the instrument more readily understandable for the benefit of water companies/suppliers. This is in keeping with the Government’s commitment to better regulation.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales
- 5.2 This instrument applies primarily in England but also applies to relevant water suppliers where the water undertaker’s area is mainly in England but partly in Wales.
- 5.3 Wales has its own drinking water quality legislation which applies to relevant water suppliers whose areas are wholly or mainly in Wales.

6. European Convention on Human Rights

- 6.1 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 primary purpose of this instrument is to transpose the monitoring requirements of Council Directive 2013/51/Euratom (“the Euratom Directive”) on the protection of health of the general public with regard to radioactive substances in water intended for human consumption. The Euratom Directive introduces a new standard for radon in drinking water and provides for more efficient monitoring for radioactive substances (indicative dose, tritium and radon). Radon is a natural radioactive gas which has no taste or smell. It is associated with particular geology and therefore certain parts of the country are more prone. It dissipates quickly in the air.
- 7.2 Under the 2000 Regulations, radon is currently not specifically monitored in public supplies. Water companies monitor supplies for radioactivity on a risk basis. If certain guidelines are exceeded, further analysis is carried out which may identify the presence of radon. The Euratom Directive requires that specific monitoring now takes place where there is a risk of radon being present in drinking water, based on local geology and other factors. This approach reflects World Health Organisation guidelines. The Euratom Directive requirements are transposed in this instrument primarily through regulation 6 and Schedules 2, 3 and 4.
- 7.3 The instrument also gives effect to two domestic policy changes. The first is the reduction in the waiting time relating to the use of new sources of water by reducing the time that the Drinking Water Inspectorate has to process risk assessments of new sources from 3 months to 1 month. This will increase efficiency for the water companies and give greater confidence in the security of their water supplies and their ability to maintain continuity of supplies. The second, clarifies the data records that need to be maintained by water companies by including a specific reference to electronic records in the existing list of data requirements. This will ensure that any electronic records collected are kept for the same length of time as other specified data records.
- 7.4 Additional wording and numbering changes to the 2000 Regulations have also been made in the instrument to improve clarity of transposition of Council Directive 98/83/EC. This is in keeping with the Government’s commitment to better regulation.

Consolidation

- 7.5 This instrument revokes and consolidates the 2000 Regulations.

8. Consultation outcome

- 8.1 A public consultation on this instrument and the draft Private Water Supplies (England) Regulations 2016 ran for 6 weeks from 1 February to 14 March 2016. All water companies and licensed water suppliers were invited to respond to the consultation. We received 17 responses in respect of this instrument. The length of time for the consultation and nature of respondents reflects the very specific nature of the instrument and the limited changes. Simplification of the regulations and the proposal to reduce the time for introducing new supplies was welcomed. There were

requests for further clarification and guidance on several issues including record keeping, new and bulk supplies and certain technical specifications. This will be provided in the guidance prepared by the Drinking Water Inspectorate.

9. Guidance

- 9.1 The Drinking Water Inspectorate has issued an Information Note about the new regulations to water companies and will publish revised Guidance on their website. This guidance provides practical application of the regulations as well as clarity on technical aspects.

10. Impact

- 10.1 The impact on water companies is estimated to be under £160k a year and relates to monitoring of water sources for radon and other radioactive substances. This would be an on-going cost though is expected to diminish over time as more data becomes available and some water sources move to a lower risk category.
- 10.2 There is no impact on the public sector.
- 10.3 A Validation Impact Assessment is submitted with this memorandum and will be published alongside the explanatory memorandum on the legislation.gov.uk website.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 Two of the water companies are considered small businesses. Their water supplies are not located in moderate or high-risk radon areas so it is not expected that they will be affected by the regulatory amendments regarding monitoring.

12. Monitoring & review

- 12.1 Regulation 39 of the instrument requires the Secretary of State to carry out a review of the regulations and to produce a report setting out the conclusions of the review within 5 years of the instrument coming into force and at 5 yearly intervals thereafter. This is in line with the duties in section 28 and 30 of the Small Business Enterprise and Employment Act 2015.

13. Contact

- 13.1 Alison Maydom at the Department for Environment, Food and Rural Affairs. Telephone: 020 8026 2699 or email: alison.maydom@defra.gsi.gov.uk can answer any queries regarding the instrument