

EXPLANATORY MEMORANDUM TO
THE WATER INFRASTRUCTURE ADOPTION (PRESCRIBED WATER FITTINGS
REQUIREMENTS) (ENGLAND) REGULATIONS 2017

2017 No. 841

1. Introduction

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

2. Purpose of the instrument

- 2.1 The purpose of the instrument is to prescribe the minimum standards which must be met in respect of water mains and supply pipes (“infrastructure”) built by a developer, before the Water Services Regulations Authority (“Ofwat”) may require a water undertaker to adopt the infrastructure. The prescribed standards are those set out in the Water Supply (Water Fittings) Regulations 1999 and include requirements as to the general quality and standards of the fittings and standards of workmanship, as well as the prevention of waste, misuse, undue consumption or contamination of the water supplied.
- 2.2 The requirements apply in respect of undertakers whose area is wholly or mainly in England.

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 the 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 Section 51A of the Water Industry Act 1991 (“the Act”) provides that a water company may agree with a developer that it will adopt infrastructure laid by the developer under certain conditions. If the parties cannot reach such an agreement, under section 51B of the Act either party may request that Ofwat require the water company to adopt the infrastructure. Section 51B(6) provides that Ofwat may not require the adoption of any infrastructure in relation to which there is a contravention of prescribed requirements imposed under section 74 of the Act.
- 4.2 The 1999 Regulations were made under section 74 of the Act. Under regulation 2, they apply to most water fittings installed or used in premises to which water is supplied by a water undertaker. The requirements prescribed by these Regulations are regulations 3 and 4 of the 1999 Regulations.

- 4.3 Under regulation 3 of the 1999 Regulations, water fittings must not be installed, connected, arranged or used in such a manner that they cause or are likely to cause waste, misuse, undue consumption or contamination, or erroneous measurement, of the water supplied, including by reason of the fitting being damaged, worn or faulty.
- 4.4 Under regulation 4 of the 1999 Regulations, water fittings must be of an appropriate quality and standard, must be suitable for the circumstances in which they are used, must comply with certain technical requirements set out in Schedule 2 to the 1999 Regulations and must be installed, connected, altered, repaired or disconnected in a workmanlike manner.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 This instrument applies only to water undertakers that are wholly or mainly in England.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to the 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 Water Act 2014 (“the 2014 Act”) reforms the water industry to help address future challenges arising from a growing population, increasing customer expectations and changing climate. The 2014 Act includes a number of provisions to reform the market for the provision of water infrastructure for new housing developments.
- 7.2 Currently, if a development requires a new water main or supply pipe, the developer may ask the water undertaker to install the infrastructure or they may install the infrastructure themselves; the latter is known as “self-lay”. Where a developer chooses the self-lay route it may agree with a water undertaker that the undertaker will adopt the infrastructure. The Act provides the regulatory framework for such arrangements. Following reforms introduced by the 2014 Act, Ofwat may regulate the arrangements between the parties using enforceable codes and charging rules, which reduces the need for lengthy and costly negotiations between parties, and may impose agreements on the parties where they are unable to come to an agreement themselves.
- 7.3 These Regulations confirm that Ofwat may not require a water undertaker to adopt infrastructure that does not meet prescribed standards. The standards prescribed are the same ones which must be met in respect of existing water infrastructure to be connected to the undertaker’s supply at the request of a developer or of a water supply licensee on behalf of a non-household customer.

8. Consultation outcome

- 8.1 No formal consultation was undertaken on these Regulations as they introduce a technical and relatively minor provision that is consequential on provisions of the 2014 Act which were scrutinised by Parliament. The Government has, however, consulted on a draft of the Regulations with Ofwat, because of its role in resolving

disputes between water undertakers and developers, and the Drinking Water Inspectorate, because of its interest in the application of the 1999 Regulations.

9. Guidance

9.1 There is no guidance to accompany these Regulations.

10. Impact

10.1 There is no significant impact on business, charities or voluntary bodies. The standards prescribed by the 1999 Regulations must already be met in respect of all new water fittings connected to a water undertaker's supply system for the same purposes of supply as are prescribed by these Regulations.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument but one was produced covering the provision of new infrastructure in advance of the Water Bill entering Parliament in June 2013. This impact assessment is available on legislation.gov.uk alongside the 2014 Act

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses (employing up to 50 people) in so much as they are developers of water infrastructure for new premises to which water is to be supplied by a water undertaker.

12. Monitoring & review

12.1 The Secretary of State will review these Regulations by 1st October 2022 and publish a report setting out the extent to which they have met their intended objectives, whether those objectives are still appropriate for legislation and if so the extent to which they could be achieved with less regulation. Subsequent reports must be published at intervals not exceeding five years.

13. Contact

13.1 Alison Maydom at the Department for Environment, Food and Rural Affairs
Telephone: 0208 026 2699 or email: alison.maydom@defra.gsi.gov.uk can answer any queries regarding the instrument.