

EXPLANATORY MEMORANDUM TO

The Water Supply (Water Fittings) Regulations (Northern Ireland) 2009

SR 2009 No. 255

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 114 and 300(2) of the Water and Sewerage Services (Northern Ireland) Order 2006 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The Regulations aim to prevent the waste, misuse, undue consumption and erroneous measurement of water supplied by Northern Ireland Water. The Regulations will govern the design, installation and maintenance of plumbing systems and water fittings; they will enhance customer and environmental protection and contribute to the maintenance of high quality public drinking water.
- 2.2. Regulation 1 states when the Regulations will come into operation and defines certain terms used in the Regulations.
- 2.3. Regulation 2 sets out that the Regulations apply to any water fitting installed or used to which water is supplied by NIW. It also states where the Regulations do not apply such as private water supplies or water fittings lawfully installed or used before the Regulations come into operation.
- 2.4. Regulation 3 states that water fittings must not be installed, connected, arranged or used in such a manner that they are likely to cause waste, misuse, undue consumption or contamination, or erroneous measurement, of the water supplied by NIW.
- 2.5. Regulation 4 sets out that fittings must be of an appropriate quality or standard, and be suitable for the circumstances in which they are used; and that they must be installed, connected or disconnected in a workmanlike manner.
- 2.6. Regulation 5 requires any person who proposes to install certain water fittings to notify NIW, and not to commence installation without the undertaker's consent. The undertaker may then withhold consent or grant it on certain conditions. This requirement does not apply to some fittings which are installed by an approved contractor.
- 2.7. Regulation 6 requires an approved contractor to provide a certificate to the person who commissioned the work stating that any work carried out complies with the Regulations.
- 2.8. Regulation 7 provides for a fine not exceeding £1000 for any contravention of the Regulations. It is a defence to show that the work

carried out was done by or under the direction of an approved contractor, and that the contractor certified that it complied with the Regulations.

- 2.9. Regulation 8 gives NIW plumbing inspectors the power to carry out any tests or inspections on water fittings within a premises or to take samples away in order to determine compliance with the Regulations.
- 2.10. Regulation 9 states that the duty of NIW to enforce the Regulations is enforceable by DRD under powers contained within the Water and Sewerage Services (Northern Ireland) Order 2006.
- 2.11. Regulation 10 enables the Department to relax the requirements of the Regulations on the application of the water undertaker and sets out the conditions that any relaxation is subject to.
- 2.12. Regulation 11 states that if NIW approves any new method of installation it shall notify DRD and publish the new method of installation.
- 2.13. Regulation 12 enables any dispute between NIW and an installer to be referred to an arbitrator in relation to notifications or a relaxation of requirements.
- 2.14. Regulation 13 requires the water undertaker to publish an annual report detailing levels of enforcement activities.
- 2.15. Regulation 14 provides for NIW to carry out works and recover costs from the offending person in respect of contamination incidents which occurred as a result of any contravention of the Regulations.
- 2.16. Regulation 15 revokes the Water Regulations (Northern Ireland) 1991¹.
- 2.17. Schedule 1 defines categories of fluid which may exist both within and downstream of water supply pipework. The categories range from Fluid Category 1 (wholesome water) to Fluid Category 5 (represents a serious human health hazard).
- 2.18. Schedule 2 sets out the requirements for water fittings.

3. Background

- 3.1. The Regulations revoke and replace the Water Regulations (Northern Ireland) 1991 (the 1991 Regulations). The 1991 Regulations are now recognised within the water industry as being overly prescriptive and out-dated. The Regulations draw on current UK best practice and provide increased protection for NIW and the consumer by safeguarding the public drinking water supply and introducing approved contractors.

4. Consultation

- 4.1. The consultation document was issued to over 300 organisations, groups and individuals and we received 12 organisational responses. Of these made no specific comment on the policy proposals but used the opportunity to inform the Department of the work that they undertake.
- 4.2. The responses received were very helpful and highlighted some areas that needed amended in the proposed Regulations. Where relevant and

¹ S.R. 1991/50

appropriate, the Department adopted the amendments suggested in order to enhance clarity in the Regulations.

- 4.3. Overall the respondents were supportive of the aims and objectives of the Regulations.

5. Equality Impact

- 5.1. Consideration was given to Section 75 of the Northern Ireland Act 1998. The need for an Equality Impact Assessment was screened out.

6. Regulatory Impact

- 6.1. A partial Regulatory Impact Assessment showed that the benefits of the Regulations outweigh any possible additional costs. The risk of contamination to the public drinking water supplies is greater than any possible costs associated with complying with the requirements of the Regulations. Regulations should not overly burden businesses given that similar requirements have been in place for a number of years in the Water Regulations (Northern Ireland) 1991. The public consultation did not establish the need for a full Regulatory Impact Assessment.

7. Financial Implications

- 7.1. There are no foreseen financial implications for the Department. There are no additional operating costs to NIW for enforcing the Regulations as the plumbing inspection teams have been staffed through a reallocation of staff. The costs to NIW of complying with the Regulations will be more accurately identified once the inspection programme begins. Proactive inspection will also allow NIW to minimise possible costs associated with remedying contamination incidents arising from a contravention of the Regulations.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The proposed legislation is considered compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1. Not applicable. However as the Regulations are technical in nature the Technical Standards and Regulations Directive (98/83/EC) required a three month standstill. No responses or opinions were received.

10. Parity or Replicatory Measure

- 10.1. The Regulations are similar to the Water Supply (Water Fittings) Regulations 1999² in place in England and Wales. A similar regime exists in Scotland, implemented through the Water Byelaws 2000. The Department has taken the opportunity to build upon this framework by: extending the list of notifications (regulation 5); introducing enhanced protocols for the granting of relaxations (regulation 10); introducing a requirement on NIW to publish an annual enforcement report (regulation 13); and introducing a power to enable NIW to recoup any costs associated with remedying contamination which occurred due to a contravention of the Regulations (regulation 14).

² S.I. 1999/1148 as amended by S.I. 1999/1506

11. Additional Information

11.1. Not applicable.