

EXPLANATORY MEMORANDUM TO
The Water Supply (Domestic Distribution Systems) Regulations (Northern Ireland) 2010

SR 2010 No. 157

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Regional Development and the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. These Regulations will implement the aspects of the Drinking Water Directive (Council Directive 98/83/EC) which are the joint responsibility of DRD and DOE and have not been fully transposed.

3. Background

- 3.1. The European Commission considers that the member state (UK) has failed to correctly transpose the requirements of the Drinking Water Directive (the Directive). Responsibility for the implementing the Directive in NI is split between DRD, DOE and Food Standards Agency (FSA). DRD implements its public drinking water Directive responsibilities into national legislation through the Water Supply (Water Quality) Regulations (Northern Ireland) 2007¹. DOE implements its private drinking water Directive responsibilities into national legislation through the Private Water Supplies Regulations (Northern Ireland) 2009². The Water Supply (Domestic Distribution Systems) Regulations (Northern Ireland) 2010 will place an additional statutory obligation jointly on DRD and DOE to take remedial action in respect of water quality failures that are attributable to the domestic distribution system in premises where water is made available to the public.

4. Consultation

- 4.1. No full public consultation was carried out as the amendments must be made to fulfil Drinking Water Directive transposition requirements and place a statutory duty only on DRD and DOE.

¹ S.R 2007 No. 147 as amended by S.R 2009 No. 246 and S.R 2010 No. 128

² S.R 2009 No. 413 as amended by S.R 2010 No. 131

5. Equality Impact

- 5.1. The new provisions have been screened for equality impact. There was found to be no requirement for a full Equality Impact Assessment.

6. Regulatory Impact

- 6.1. Given that the main impact of the proposed Regulations falls on DRD and DOE there will be no adverse effects on businesses and, therefore, a full RIA is not necessary.

7. Financial Implications

- 7.1. The costs of introducing the joint Regulations are negligible. In practice failures are detected through the random sampling programme by Northern Ireland Water at consumer taps. Northern Ireland Water already investigates failures to determine the cause and where this is attributable to the domestic distribution system this is reported to both the owner/occupier and to DRD (in effect DWI). The joint Regulations also include a provision for the Departments to take action themselves and recover costs from the owner/occupier of the premises.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Regulations are fully compatible with the NI Act 1998.

9. EU Implications

- 9.1. A transposition note has been prepared and is attached.

10. Parity or Replicatory Measure

- 10.1. These Regulations are required to implement the requirements of the Drinking Water Directive (Council Directive 98/83/EC).
- 10.2. The Directive requirements are being implemented across the member state (UK) through similar provisions.

11. Additional Information

- 11.1. Not applicable.

Transposition of Council Directive 98/83/EC

The Water Supply (Domestic Distribution Systems) Regulations (Northern Ireland)
2010

1. This Transposition Note has been prepared by the Department for Regional Development (DRD) and the Department of the Environment (DOE) to show how elements of Drinking Water Directive 98/83/EC (“the Directive”) are being transposed.
2. This Note has been published to accompany the Water Supply (Domestic Distribution Systems) Regulations (Northern Ireland) 2010 which were laid before the Assembly on 16 April 2010.

The Directive

3. The Drinking Water Directive aims to protect human health from the adverse effects of any contamination of water intended for human consumption by ensuring it is wholesome and clean.

Responsibility for transposition

4. Responsibility for the transposition of the Directive in Northern Ireland falls to the DRD, DOE and the Food Standards Agency. DRD implements its public drinking water Directive responsibilities into national legislation through the Water Supply (Water Quality) Regulations (Northern Ireland) 2007³. DOE implements its private drinking water Directive responsibilities into national legislation through the Private Water Supplies Regulations (Northern Ireland) 2009⁴. The Water Supply (Domestic Distribution Systems) Regulations (Northern Ireland) 2010 will place an additional statutory obligation jointly on DRD and DOE to take remedial action in respect of water quality compliance failures that are attributable to the domestic distribution system in buildings where water is made available to the public.

Means of transposition of the main elements of the Directive

5. The following Table sets out how these elements of the Directive have now been transposed in Northern Ireland.

Article	Objective	Implementation	Responsibility
6(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	Regulation 2 implements Article 6(2) (in conjunction with Article 8(1) and (2)) by introducing a procedure in respect of failures	DRD and DOE

³ S.R 2007 No. 147 as amended by S.R 2009 No. 246 and S.R 2010 No. 128

⁴ S.R 2009 No. 413 as amended by S.R 2010 No. 131

	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.	attributable to the domestic distribution system in premises where water is supplied to the public.	
8(6)	In the event of non-compliance with parametric values set out in Annex I, Part C, Member states shall consider whether that non-compliance poses any risk to human health. They shall take remedial action to restore the quality of water where that is necessary to protect human health.	Regulation 2 requires that DRD and DOE take mandatory remedial action where there is potential danger to human health in premises where water is supplied to the public	DRD and DOE
8(7)	Consumers must be notified where remedial action is taken, unless the failure is trivial.	Regulation 3 implements Article 8(7) by ensuring that consumers are notified of any remedial action taken under regulation 2.	DRD and DOE

Department for Regional Development and Department of the Environment
16 April 2010.