



Department of  
**Agriculture, Environment  
and Rural Affairs**

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**CONSULTATION ON PROPOSED CONSOLIDATED PRIVATE  
WATER SUPPLIES REGULATIONS TO IMPLEMENT EUROPEAN  
COMMISSION DIRECTIVE (EU) 2015/1787 AMENDING ANNEXES II  
AND III TO COUNCIL DIRECTIVE 98/83/EC ON THE QUALITY OF  
WATER INTENDED FOR HUMAN CONSUMPTION**

**SYNOPSIS OF RESPONSES**

**Department of Agriculture, Environment and Rural Affairs**

**September 2017**

## **Contents**

1. Introduction
2. Consultation
3. Engagement with stakeholders
4. Responses to consultation
5. Next Steps

ANNEX A – List of Respondents

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## **1. Introduction**

In June 2017, the Department published a consultation paper on proposals to make new drinking water quality regulations in respect of private water supplies in order to transpose [Directive \(EU\) 2015/1787](#) which makes revisions to the monitoring and analysis requirements set in Annex II and Annex III of the [98/83/EU Directive](#) on the quality of water intended for human consumption (“the Drinking Water Directive”).

The Drinking Water Directive was originally transposed in Northern Ireland in respect of private drinking water supplies through the Private Water Supplies Regulations (Northern Ireland) 2009 (as amended in 2010 and 2015) (“the 2009 Regulations as amended”). The consultation proposed that the 2009 Regulations as amended would be replaced and revoked by a new set of Regulations in order to reflect the changes introduced by Directive (EU) 2015/1787. The new set of Regulations which consolidate and revoke the 2009 Regulations will be titled “the Private Water Supplies Regulations 2017”.

## **2. Consultation**

The Department launched the consultation on proposed new Private Water Supplies Regulations on 15 June 2017 and it ran until 10 August 2017. The public consultation gave stakeholders the opportunity to provide their views on the proposals made by the Department and on the Department’s assessment of the impact of proposed new Regulations. The proposals included a draft of the new set of Regulations “the Private Water Supplies Regulations 2017” (the 2017 Regulations).

## **3. Engagement with stakeholders**

Information on the consultation and links to the consultation paper were provided to the normal statutory consultees and relevant private drinking water stakeholders. The consultation was also advertised on the Department’s website.

## **4. Responses to consultation**

The consultation paper sought views on the proposed 2017 Regulations. A total of 4 responses were received. The respondents raised no objections to the making of the

Regulations. The following sections provide an overview of the main comments contained in the other responses and the Department's reply to these comments. It is not intended to be a comprehensive report on every comment received, but rather a summary of the key issues raised in the responses.

### **Comments on regulation 2 (Interpretation) - definition of 'water intended for human consumption'**

One of the respondents raised a concern that the term 'other domestic purposes' within the definition of 'water intended for human consumption' under Regulation 2 of the 2017 Regulations may inadvertently impose restrictions on consumers and businesses who harvest rainwater or other gray water for vehicle washing and toilet flushing purposes. The respondent asked for more clarity to what is meant by the term 'other domestic purposes'. The respondent also commented that the terminology for 'water intended for human consumption' first appeared in the Private Water Supplies (Amendment) Regulations (NI) in 2015 (the 2015 Regulations).

#### Departmental Response

*"Water intended for human consumption" is defined within Article 2 of the [Drinking Water Directive](#) and therefore is not a new definition nor a new provision introduced by the 2015 Regulations. The definition for "water intended for human consumption" was applied within domestic law through the [Private Water Supply \(NI\) Regulations 2009](#) (the Principal Regulations) (which transposes the Drinking Water Directive) through a catch all provision under regulation 2 (3). Regulation 2 (3) of those Regulations stated "Any other expressions used in these Regulations and in Council Directive 98/83/EC on the quality of water intended for human consumption shall have the same meaning as in that Directive".*

*The Department when making the 2015 Regulations (which are Regulations that amended the Principal Regulations) took the opportunity to insert direct wording from the Drinking Water Directive for the definition of "water intended for human consumption" for clarity purposes to demonstrate direct transposition of this Directive and to better align with the Government's current policy aims on Better*

## *Regulation.*

*The Department is of the opinion that the ‘ejusdem generis rule’ applies in interpreting ‘other domestic purposes’ within the definition of ‘water intended for human consumption’ under regulation 2 of the Principal Regulations (as amended) and regulation 2 of the 2017 Regulations. ‘Ejusdem generis’ is latin for ‘same of the same kind’ and is applied to include class, or nature. In a statutory construction, the ‘ejusdem generis rule’ is that where general words follow an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or class as those specifically mentioned. Therefore in effect ‘other domestic purposes’ is to be read in the context of regulation 2 and is hence confined to activities in the same domestic class as drinking and food preparation. The Department is also therefore of the opinion that the term ‘other domestic purposes’ within the remit of these Regulations (the Principal Regulations (as amended) and the 2017 Regulations) does not have an application to those ‘domestic activities’ defined under Article 2 of the [Water and Sewerage Services \(NI\) Order 2006](#) (WSSO) for example vehicle washing.*

One respondent highlighted that to define the ‘competent national authority’ in the way proposed in the regulation 2 of the draft Private Water Supplies Regulations 2017 within the definition of “water intended for human consumption” does not allow for provision under regulation 4 of the Food Hygiene Regulations (NI) 2006.

### *Departmental Response*

*For the making of the 2017 Regulations the Department will make amendments to regulation 2’s definition of ‘water intended for human consumption’ which will apply provisions set by regulation 4 of the Food Hygiene Regulations (NI) 2006.*

A respondent highlighted that there is not currently a consistent approach in the wording of the definition of ‘water intended for human consumption’ within each UK Administrations’ Regulations relating to private drinking water supplies.

### Departmental Response

*The Department's position is to continually strive for a consistent approach where possible to the rest of the UK when transposing European Directives into domestic legislation and it intends in light of this consultation, to further engage with counterparts in other areas of the UK on the definition of 'water intended for human consumption' in relation to private drinking water supplies. In the interim when making the 2017 Regulations the Department shall make the appropriate amendment to the definition which will include references to Regulation (EC) No 852/2004 and which will be a similar line to the definition of 'water intended for human consumption' in the Private Water Supply (England) Regulations 2016.*

### **Comments on the new risk based approach to monitoring**

One of the respondents raised concerns of the new approach to risk assessments under the 2017 Regulations in relation to the scope and robustness of the data currently available on groundwaters in Northern Ireland and in relation to risk assessors required hydrogeological expertise.

### Departmental Response

*The Department in adopting a risk based application which meets EN 15975-2 – Security of Drinking Water Supply Guidelines for Crisis and Risk Management as required by the 2017 Regulations, and will be using the best available information in the production of risk assessments at private drinking water supplies. In relation to assessing the risks within a groundwater catchment of a private water supply, it is a requirement under regulation 7(6)(b) of the 2017 Regulations to take account of relevant results obtained from the Department's monitoring programmes under the Water Framework Directive, and the Department will also take account of any other relevant data available relating to the raw water quality and catchment.*

*The current risk assessment process in assessing the risks within catchments has been designed with guidance notes to assist those who will be undertaking the assessment. The risks assessed are those which can be aptly determined through an assessment of the available data on the source and catchment, along with a*

*visual inspection of the area surrounding the abstraction point. However, the Department is committed to employing best practice in the ongoing development of its risk assessment methodology and as such will engage with relevant stakeholders to ensure risk assessments utilise the best available information and data sources.*

One respondent suggested that careful explanation must be given to consumers if any alteration in the reporting of water quality findings is as a result of the changes in the monitoring regime, and not in actual water quality itself.

#### *Departmental Response*

*The Department agrees that careful explanation must be given to consumers if any alteration in the reporting of water quality findings is as a result of the changes in the monitoring regime by the provisions set in the 2017 Regulations, and not in actual water quality itself. The Department will ensure consumers are kept fully informed of any changes to the monitoring requirements which may follow the introduction of these Regulations, along with how these may impact on reporting water quality data/compliance at private drinking water supplies.*

## **5. Next Steps**

Having taken into consideration the views received during the consultation process the Department will finalise and make the Private Water Supplies Regulations (Northern Ireland) 2017. These Regulations will come into operation in October 2017.

## **ANNEX A**

### **List of Respondents**

Ards and North Down Borough Council

Consumer Council Northern Ireland

Food Standards Agency Northern Ireland

Geological Survey of Northern Ireland