

**Explanatory Memorandum to the Surface Water and Water Resources
(Miscellaneous Revocations) Regulations 2015
2015 No. [XXXX]**

This Explanatory Memorandum has been prepared by the Department for Natural Resources and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Surface Water and Water Resources (Miscellaneous Revocations) Regulations 2015.



Carl Sargent, Minister for Natural Resources

26 February 2015

1. Description

The Surface Water and Water Resources (Miscellaneous Revocations) Regulations 2015 revoke various pieces of 'obsolete' subordinate legislation as a consequence of the Red Tape Challenge.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

The Red Tape Challenge (RTC) is a Cabinet Office led initiative designed to draw on the experience and ideas of both business and individuals to assist in a review of the regulatory stock. The Water and Marine theme of the Challenge covers drinking water quality, flood management, inland waterways, marine conservation and fisheries. Of the 371 regulations considered under this theme, Defra has committed to make changes to 235 regulations.

These composite Regulations will apply to England and Wales and are subject to negative resolution procedure in the National Assembly for Wales and in both Houses of the UK Parliament. Because the Regulations will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually.

3. Legislative background

The Welsh Ministers are making these Regulations in relation to Wales, in exercise of the powers conferred by Section 50 and 116 of the Water Resources Act 1991, in relation to Wales, other than those parts within the catchment areas of the rivers Dee, Wye and Severn, in exercise of the powers conferred by Sections 82 and 219(2) of the Water Resources Act 1991.

These Regulations may be cited as the Surface Waters and Water Resources (Miscellaneous Revocations) Regulations 2015 and come into force on 6th April 2015.

In relation to Wales, the functions of the Secretary of State under sections 50 and 116 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) ("the TFO"), article 2 and Schedule 1. The functions under section 82 were transferred to the National Assembly for Wales by those provisions of the TFO except so far as they are exercisable in relation to those parts of Wales which are within the catchment areas of the rivers Dee, Wye and Severn. Under article 5 and Schedule 2 of the TFO, the Secretary of State may exercise the functions under section 82 in relation to those parts of Wales only with the agreement of the National Assembly for Wales. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by the Government of Wales Act 2006 (c.32), Schedule 11, paragraph 30.

As part of Defra's commitment to the Red Tape Challenge initiative a number of regulations have been identified as redundant and suitable for revoking. The Welsh Government have fully considered this and concur with this position.

This instrument will revoke ten regulations relating to surface waters and water resources.

This Order extends to England and Wales.

4. Purpose & intended effect of the legislation

The four Surface Waters (Dangerous Substances) (Classification) Regulations prescribed systems for classifying the quality of inland freshwaters, coastal waters and relevant territorial waters with a view to reducing pollution of those waters by the certain substances. The Regulations were made to establish the water quality objectives under Council Directive 76/464/EEC, which has now been revoked.

The Surface Waters (River Ecosystem) (Classification) Regulations 1994 prescribed a system of classification of inland fresh waters and implemented requirements under Directive 75/440 EEC and Directive 79/869 EEC. It has been superseded by the Directions relevant to the implementation of the Water Framework Directive (2000/60/EC).

The Surface Waters (Fishlife) (Classification) Regulations 1997 and the two amending sets of regulations implement the Freshwater Fish Directive (Directive 2006/44 EC) which has been revoked.

The Surface Waters (Abstraction for Drinking Water) (Classification) Regulations are now redundant because sampling and analysis of inland surface waters intended for drinking water is now carried out to an equivalent standard under other regulations.

The Water Resources (Succession to Licences) Regulations 1969 conferred water abstraction licence rights on those taking over land previously occupied by persons who had licences to abstract water for use on the land. The procedures for doing this are time limited and are now spent, therefore these regulations can now be revoked.

5. Consultation

These are legislative functions which require no outside consultation.

6. Regulatory Impact Assessment (RIA)

Having considered the Welsh Ministers' code of practice, an Impact Assessment has not been prepared for this instrument.

