



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**

Department of Agriculture, Environment and Rural Affairs

JUNE 2017

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Consultation Arrangements

The Department welcomes any views or comments on any aspect of its proposals to make new consolidated Regulations in order to transpose Directive (EU) 2015/1787 in respect of the regulation of private drinking water supplies. The proposals include draft Private Water Supplies (Northern Ireland) Regulations 2017

This consultation period is from **15 June 2017 to 10 August 2017**.

Please send your views and comments on the proposals set out in this document to the Department by **10 August 2017**.

Comments may be made as follows:-

In writing to:-

Water Policy Team
Department of Agriculture, Environment and Rural Affairs
Regulatory and Natural Resources Policy Division
Klondyke Building
Gasworks Business Park
Ormeau Road
Malone Lower
Belfast
BT7 2JA

By E-mail waterpolicy@daera-ni.gov.uk

By Text phone: 028 9056 9484

Further copies of this paper may be obtained from the above address on written request or by telephoning 028 9056 9484. The paper can also be accessed online at: <https://www.daera-ni.gov.uk/consultations>

This document may be available in alternative formats. Please contact us to discuss your requirements.

A list of some of the consultees that we have contacted directly for this exercise is attached at Annex C. This list is not exhaustive and we welcome views from all interested parties.

When responding please clearly indicate which questions or parts of the consultation paper you are responding to. This will aid our analysis of the responses received.

Freedom of Information Act 2000

The Department will publish a summary of responses following completion of the consultation process. Your response and all other responses to the consultation may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. **Before** you submit your response, please read the paragraphs below with respect to the confidentiality of consultations, as they will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:-

- The Department should only accept information from third parties in confidence if it is necessary to obtain information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- The Department should not agree to hold information received from third parties 'in confidence' which is not confidential in nature; and
- Acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of response please contact:-

Information Commissioner's Office – Northern Ireland

3rd Floor, 14 Cromac Place

Gasworks

Ormeau Road

Belfast

BT7 2JB

Telephone: 02890 278757 / 0303 1231114

Alternatively your request can be sent electronically to ni@ico.org.uk

Executive Summary

Scope and Purpose of the Consultation

- 1 The Department, by way of this consultation paper, is seeking the views of stakeholders on proposals, in respect of private drinking water supplies only, to transpose Directive (EU) 2015/1787 (“the Amending Directive”).
- 2 The Amending Directive 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”).
- 3 Member States are required to bring into force the laws, regulations and administrative provisions necessary to comply with the revised Drinking Water Directive by 27 October 2017. In Northern Ireland, the Department of Agriculture, Environment and Rural Affairs (“the Department”) is the authority responsible for transposing these revisions in respect of private drinking water supplies.
- 4 The Department is also taking this opportunity to consolidate the content from the existing drinking water regulations in respect of private water supplies, remove anomalies and make minor amendments so that the legislation is more readily understandable. These are in keeping with the Government’s commitment to better regulation. These provisions are also the subject of this consultation paper.

1: Explanation of the consultation – what is this about?

1.1 Introduction and Background

Drinking water supplies in Northern Ireland are either provided through the public water supply by Northern Ireland Water Limited (Northern Ireland's Statutory Water undertaker) or by private water supplies. Private water supplies are water supplies which are not provided by the Statutory Water undertaker, but are the responsibility of their owners and users, and supplies may be drawn from a variety of surface and groundwaters.

The Drinking Water Directive objective is to protect human health from adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome. This Directive applies to all drinking water supplies intended for drinking, cooking, food preparation and other domestic purposes. The following regulations implement the Drinking Water Directive in Northern Ireland:

Private Water Supplies

At present, the Drinking Water Directive is transposed in Northern Ireland for private drinking water supplies through the Private Water Supplies Regulations (Northern Ireland) 2009 (as amended in 2010 and 2015) ("the 2009 Regulations").

Public Water Supply

At present, the Drinking Water Directive is transposed in Northern Ireland for public drinking water supplies through the Water Supply (Water Quality) Regulations 2007 (as amended in 2009, 2010 and 2015)

This consultation document concerns proposals to transpose Directive (EU) 2015/1787 in regards to private drinking water supplies legislation only. A separate consultation shall address proposals relating to the public drinking water supply legislation.

1.2 Background- amendments to the Drinking Water Directive by Commission Directive (EU) 2015/1787

Commission Directive (EU) 2015/1787 (the amending 2015 Directive) amends Annexes II and III to the Drinking Water Directive which lay down minimum requirements relating to water quality monitoring programmes and specifies the methods of analysis for different parameters required to be monitored within drinking water supplies. Amendments to these annexes have been made in light of scientific and technical progress and to ensure consistency with other EU Legislation.

Annex II amendments

The amendments to Annex II align monitoring requirements with the latest updates of internationally recognised principles and guidelines including 'EN 15975 -Security of drinking water supply– Guidelines for risk and crisis management' and 'the World Health Organisation's water safety plan approach' which is based on risk assessment and risk management principles, laid down in its 'Guidelines for Drinking Water Quality'.

Annex II amendments allow Member States to use a risk-based approach to allow derogation from monitoring plans and to apply flexibility in monitoring requirements. This allowance for a degree of flexibility in the monitoring requirements for drinking water is framed by a number of conditions which must be met to ensure the protection of human health.

Flexibility in monitoring requirements allows Member States to reduce or extend water quality monitoring frequencies. There is also provision for removing certain parameters from the monitoring programme. However, there are conditions to be met before these changes can be made. These relate to the collection of three years data, which must meet certain criteria, and must also be supported by the outputs from a risk assessment process.

Risk assessments are required to be carried out on private drinking water supplies under the 2009 Regulations, and the 2015 amending Directive introduces a new requirement for these assessments to be carried out to the standards detailed in 'EN 15975 -Security of drinking water supply– Guidelines for risk and crisis management'. The amending Directive also requires for these assessments to take into account the monitoring carried out under Article 8 of Directive 2000/60/EC ("the Water Framework Directive").

Analysis of the data collected to date from monitoring programmes has shown that, for some (particularly physio-chemical) parameters, the concentrations present would rarely result in any breach of limit values. The monitoring and reporting of such parameters which do not pose a risk of breaching drinking water standards can incur significant costs within a monitoring programme. Introducing these flexible arrangements under specified conditions presents potential cost-saving opportunities, while not impacting on the protection of human health. Flexible monitoring also reduces the collection of data that provide little or no information on the quality of the drinking water. There will however be occasions where, under these flexible arrangements, an increase in sampling frequencies may be required in cases where a risk assessment and the monitoring data shows a potential risk to human health.

Annex III amendments

Annex III has been amended to ensure laboratories validate and document methods of analysis and apply quality management system practices in accordance with the international standard EN ISO/IEC 17025, or equivalent standard accepted at international level. It also

revises previous methods of analysis and introduces new performance characteristics based on 'uncertainty of measurement'.

1.3 Directive (EU) 2015/1787 transposition date requirements

The requirements of the 2015 Directive form part of European law and must be incorporated into the Member States' domestic legislation no later than 27 October 2017.

The European Commission has produced an unofficial consolidated version of the Drinking Water Directive which is available here:-

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01998L0083-20151027>

1.4 Purpose of this consultation

The purpose of this consultation is to invite views on proposed changes to private drinking water supplies legislation in order to transpose Drinking Water Directive amendments introduced by the amending 2015 Directive. **A separate consultation shall address proposals relating to the public drinking water supply legislation.**

While making these changes to legislation in relation to private water supplies the Department is also taking this opportunity to consolidate the content from the existing private drinking water regulations (the 2009 Regulations). Consolidation will include making minor amendments so that the legislation has more clarity, better aligns with the wording in the Drinking Water Directive and to remove anomalies. This is in keeping with the Government's commitment to better regulation.

Consultees are invited to consider the proposals on the new draft set of consolidated and amended Private Water Supplies Regulations in their totality and provide any comments.

It is proposed that the new Regulations should be entitled provisionally "The Private Water Supplies Regulations (Northern Ireland) 2017".

The proposed draft set of consolidated and amended Private Water Supplies Regulations ("the draft 2017 Regulations) considered in this consultation is located in Annex A of this document.

Consultees should note that these draft regulations will not be legally scrutinised until after the consultation and therefore they may be subject to change prior to being made.

1.5 Proposal to revoke current Regulations

As the Department is proposing to make a consolidated set of regulations in respect of Private Water Supplies the following regulations will be revoked:

- The Private Water Supplies Regulations (Northern Ireland) 2009
- The Private Water Supplies (Amendment) Regulations (Northern Ireland) 2010
- The Private Water Supplies (Amendment) Regulations (Northern Ireland) 2015

1.6 Who Has An Interest In The Consultation?

The Drinking Water Directive and amending 2015 Directive's overall objective is to protect human health from adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome. The fulfilment of this objective is of interest to private water supply users and suppliers which could include - members of the public, district councils and their representative bodies, trade associations, businesses, non-governmental organisations and consumer groups.

Part 2: Proposals for the transposition

The Government's Better Regulation agenda includes the requirements that when transposing EU law the Government will ensure that Northern Ireland does not go beyond the minimum requirements of the measure which is being transposed and will use copy out for transposition where it is available, except where doing so would adversely affect NI interests. We have sought to follow these principles in transposing the amendments made by Directive (EU) 2015/1787, and to minimise additional regulatory burden whilst protecting human health in relation to water quality of private drinking water supplies.

Part 3: Proposed amendments to the 2009 Regulations to transpose the 2015 Directive

3.1 Article 1(1) of the 2015 Directive amended Annex II of the Drinking Water Directive

Article 1(1) of the amending 2015 Directive amended Annex II of the Drinking Water Directive relating to monitoring programmes for water intended for human consumption. The new provisions concerned with Annex II amendments are explained below.

'General objectives and monitoring programmes for water intended for human consumption' (proposed transposition through Regulation 9, and Schedule 2 of the draft 2017 Regulations)

The amending 2015 Directive requires monitoring programmes to be established for private drinking water supplies. Monitoring programmes are to verify measures applied which control risks to human health throughout the private water supply chain from the catchment area through abstraction, treatment and storage to distribution to ensure they are working effectively and that drinking water at the point of compliance is wholesome.

The 2009 Regulations requires the Department to monitor substances or organisms known as parameters in order to provide information on the quality of the water supplied for human consumption and to assess compliance with standards (parametric values) set by the Drinking Water Directive. The Department currently meets these monitoring requirements through the establishment of monitoring programmes which are subject to regular review. The Department assesses the results from monitoring in order to verify any measures in place to control risks to human health from private water supplies and to identify any mitigation required to address risk to human health.

To directly transpose the amending 2015 Directive the wording in proposed regulation 9 and Schedule 2 refers to the requirement to include the provision to base monitoring programmes

on risk assessments, and the requirement to keep monitoring programmes under review and update them a minimum of every 5 years.

Consultation Question: Do you have any comments on monitoring programme requirements?

Parameters, monitoring suites and frequencies (proposed transposition through Schedule 3 of the draft 2017 Regulations)

The amending 2015 Directive no longer uses the terms “check monitoring” and “audit monitoring” within Annex II. Instead Annex II now uses the terms “Group A parameters” and “Group B parameters” in relation to the required monitoring suites. Accordingly, this change is reflected in the proposed draft 2017 Regulations.

Group A and Group B monitoring requirements in the draft Regulations are comparable to check monitoring (similar to Group A monitoring) and audit monitoring (similar to Group B monitoring) requirements of the 2009 Regulations with some differences. The differences are discussed below.

Monitoring for the parameters, Manganese, *Clostridium perfringens* (including spores) and radioactive substances (Radon, Tritium and ID) under the 2009 Regulations are included within check monitoring. The amending 2015 Directive does not require monitoring of these parameters for Group A parameters and this is reflected in the proposed draft regulations. Monitoring for these parameters will be addressed in Group B monitoring requirements under the draft 2017 regulations. “Colony counts 22 °C” was not a parameter previously required to be monitored under Check monitoring in the 2009 Regulations. As per the 2015 Directive it is now required to be monitored in Group A monitoring under the draft 2017 Regulations

The minimum monitoring frequencies for Group A and Group B parameter suites proposed in the draft 2017 Regulations are lower in comparison to those required in the 2009 regulations. This is to reflect the new requirements in relation to monitoring frequencies and the move to risk based sampling allowed under the 2015 Directive. The changes also accommodate where it is identified within a risk assessment that additional sampling is required for a particular parameter or parameters. This is further discussed below. Under the new regulations the Department will also take cognisance of the outputs from risk assessments before reducing current sampling frequencies.

Risk assessment (proposed transposition through Regulation 7, Schedule 3 and Schedule 5 of the draft 2017 Regulations)

The original Drinking Water Directive did not include any specific requirement for Members States to carry out and have regard to the findings of risk assessments in relation to the establishment of monitoring programmes of private water supplies. However it was considered appropriate for the Department to apply a risk assessment approach under the current 2009 Regulations due to the benefits such an approach provided in the protection of human health.

Therefore in NI the current regulatory framework under the 2009 regulations already requires risk assessments to inform and where appropriate amend the list of parameters to be monitored under monitoring regimes at private supplies so to protect human health. The Department also uses risk assessments to provide advice and identify any risks to enable owners and managers of private water supplies to take steps to prevent or minimise the risk of those supplies becoming contaminated.

The amending 2015 Directive sets specific requirements in relation to risk assessments. Where a Member State wishes to derogate from the parameter monitoring suites and associated monitoring frequencies required, it may only do so where it has carried out a risk assessment on the private water supply in accordance with that Directive.

Under the amending 2015 Directive risk assessments are to be based on recognised International Standards such as EN15975-2 – Security of Drinking Water Supply Guidelines and Crisis Management. Risk assessments are also required to take into account the monitoring carried out under Article 8 of the Water Framework Directive. They must be approved by the Department, kept under review and updated or reconfirmed at least every 5 years. Records of the risk assessments must also be kept and made available along with a summary of its results. The draft 2017 Regulations place a duty on the Department to meet all of these requirements in relation to risk assessments.

As discussed above the 2009 regulations require ‘Check’ and ‘Audit’ monitoring of private water supplies for a specific lists of parameters at certain frequencies. These regulations have allowed a limited degree of flexibility in setting the monitoring requirements allowing for less or more frequent sampling under certain circumstances based on associated risk.

The amending 2015 Directive gives extended provision to increase or reduce the parameters monitored and the frequency of sampling in water supplies under Group A and Group B monitoring if certain specific circumstances are satisfied and also on the basis of a risk assessment described above. Monitoring for the *E.coli* parameter cannot however be removed from monitoring requirements nor monitoring frequencies reduced under any circumstance. These provisions are reflected accordingly in the proposed draft 2017 Regulations.

The Department also considered it appropriate to include in the draft 2017 Regulations, the requirement for risk assessments to be reviewed and if necessary updated, on a 5 yearly review period or sooner if there is the likelihood of changes to the quality of the water supply or if there are modifications to the supply system.

Consultation Question: Do you have any comments on the new risk based approach to monitoring?

Sampling methods and sampling points (proposed transposition through Regulation 13 and Schedule 4 of the draft 2017 Regulations)

The draft 2017 Regulations as per amending Directive now reflect new standards and technical developments which are included in the amendment to Annex III of the Drinking Water Directive in relation to ISO standards established for analysing microbiological parameters.

The draft 2017 Regulations also reflect new sampling method requirements in relation to copper, lead and nickel introduced by the amending Directive.

3.2 Article 1(2): of the 2015 Directive amends Annex III of the Drinking Water Directive (proposed transposition through Regulation 13 and Schedule 4 and of the draft 2017 Regulations)

The Draft regulations transpose the amendment to Annex III of the Drinking Water Directive which applies the specifications for the analysis of parameters. The amendments are in accordance with internationally approved procedures or criteria-based performance standards and use methods of analysis that have been validated in accordance with the most recent standards.

Until 31 December 2019 Member States may continue to use the current set of performance characteristics of analysis “trueness”, “precision” and “limit of detection”. However after this date the “limit of quantification” and “uncertainty of measurement” is to be used as performance characteristics of analysis. Accordingly this is reflected in the current draft regulations.

The draft 2017 Regulations also includes the amending Directive requirement for laboratories to apply quality management system practices in accordance with internationally accepted standards.

Part 4: Additional amendments to the 2009 Regulations

Clarifications relating to the Drinking Water Directive transposition

Although the 2009 Regulations transpose the Drinking Water Directive, we would like to take this opportunity to remove anomalies and provide some clarity on the transposition of that Directive.

These changes will not have a significant impact as the aim is to better align the wording with the Directive and the government’s current policy aims.

The proposed amendments are as follows:

Regulation 2: Interpretation

The draft Regulations contains a number of new or revised definitions, including but not limited to a new definition of ‘*relevant person*’ which replaces the term ‘*responsible person*’; and amended term to “*water intended for human consumption*”

Regulation 6: Use of products or substances in private supplies

The reference to regulation 30 of Water Supply (Water Quality) Regulations (Northern Ireland) 2007 has been removed. This is now a freestanding provision which sets out the requirements as regards products or substances used in the preparation or distribution of private water supplies.

This reflects the existence of a more flexible approach to approve products and substances that have been used historically in the treatment and distribution of private water supplies with no detrimental effect on water quality.

Regulation 13: Sampling and Analysis

The ‘point at which water is put into a bottle or container (which is not intended for sale) has been added to the required sampling points for monitoring.

Regulation 17: Sampling and Analysis

The Department is required now to initiate an investigation if it ‘*suspects*’ a supply is unwholesome or if an indicator parameter fails a specified standard. The inclusion of ‘*suspect*’ will allow the Department to initiate an investigation where there is probable cause that a supply might exceed a parameter standard in the regulations (e.g. through the outputs from a risk assessment) rather than reacting to an actual non compliance of a parameter standard in

the regulations'. This amendment has been made to allow better transposition of the Drinking Water Directive

Regulation 19 Authorisations of different standards

The term '*unless it considers the reason for the authorisation to be trivial and action is carried out which remedies the problem within 30 days*' has been inserted into this provision to allow better transposition of the Drinking Water Directive.

Schedule 1- Prescribed Concentrations and Values

The table of microbiological parameters and indicator parameters-prescribed concentrations and values, now include parameters specific for water put into bottles or containers (not intended for sale) to better transpose the original Drinking Water Directive.

Also to better align with this directive there is requirement where possible, without compromising disinfection, a relevant person (in relation to a supply of water) must strive for a lower value in regards to parameters "Bromate" and "Trihalomethanes: total".

Consultation Question: Do you have any comments in relation to the proposed amendments to improve the clarity of the regulations?

Consultation Question: Do you have any general views on the proposed changes to the 2009 Regulations

Part 5: Mandatory Consultation Arrangements

Equality Impact Assessment

Human Rights Act 1998

The Human Rights Act 1998 implements the European Convention on Human Rights. The Act makes it unlawful for any public authority to act in a way that is incompatible with those rights.

The Department considers that the proposals contained in this consultation paper are compatible with the Human Rights Act 1998.

Rural Proofing

Rural proofing is a process to ensure that all relevant Executive policies are examined carefully and objectively. It determines whether or not these policies have a different impact in rural areas from that elsewhere, given the particular characteristics of rural areas.

Consideration should be given to the policy adjustments that could be made to reflect rural needs so that, as far as possible, public services are accessible on a fair basis to the rural community.

The new proposed Regulation's will have a positive effect on protection to human health including rural areas in relation to private drinking water supplies. Amendments to water quality monitoring requirements set under current legislations proposed are in line with current scientific and technical advancement, and they provide for better coherence with European Union legislation and also to allow for more targeted problem/risk based orientated water quality monitoring of private water supplies. The proposed amendments will enhance the current high level of protection of human health in relation private water supplies set under current regulations.

Initial Regulatory Impact assessment

The Department has undertaken an initial assessment of cost to business of the proposed changes to the Private Water Supply Regulations which can be found in Annex B of this consultation document. The partial RIA has shown that there will be no additional costs associated with the proposed new Regulations. Amendments allow for better and more problem/risk based orientated monitoring of water supplies as provision for monitoring requirements is based on credible risk assessments. Therefore this may result in a lightening of the regulatory burden and financial costs of low risk supplies.

Views and evidence of any direct costs to business of the changes proposed to the current Private Water Supply regulations are welcomed. These views and evidence will be used in making a further assessment of the direct costs to business following this consultation.

**Annex A: Proposed Draft Private Water Supplies (NI) Regulations
2017 (See Attached)**

Annex B: Partial RIA

Title: Consultation on proposed new consolidated Private Water Supplies Regulations to implement Directive (EU) 2015/1787 and consolidate current legislation relating to quality of private drinking water supplies	Regulatory Impact Assessment (RIA)
	Date: 15/06/2017
	Type of measure: Secondary Legislation
Lead department or agency: Department of Agriculture, Environment and Rural Affairs	Stage: Development
	Source of intervention: EU
Other departments or agencies: N/A	Contact details: Arlene McGowan
	Regulatory and Natural Resources Policy Division Klondyke Building, Gasworks Business Park, Ormeau Road, Malone Lower Belfast BT7 2JA

Summary Intervention and Options

<p>What is the problem under consideration? Why is government intervention necessary? (7 lines maximum) The EU has amended Directive 98/83/EC on the quality of water intended for human consumption (Drinking Water Directive (DWD)) which objective is to protect human health from adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome. The amending Directive (EU) 2015/1787 forms part of European law and the Department of Agriculture, Environmental and Rural Affairs is responsible for the proper transposition of this Directive in respect of private water supplies to avoid the potential for infraction proceedings in the future.</p>
<p>What are the policy objectives and the intended effects? (7 lines maximum) Directive (EU) 2015/1787 objective is to amend Annex II and Annex III of the DWD in relation to monitoring programmes requirements and the specifications for the method of analysis of different parameters for water intended for human consumption. Amendments are in light of current scientific and technical progress and also to improve implementation of other EU rules. In addition amendments allow for flexibility in drinking water quality monitoring based on credible risk assessments with the intention to place less regulatory and monitoring burdens on Member States and to allow for more targeted problem orientated monitoring.</p>
<p>What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) (10 lines maximum) The policy options considered were to either transpose the amending Directive (EU) 2015/1787 as appropriate or to do nothing. While to do nothing was considered it was not the preferred option as the consequences of not transposing and implementing Directive (EU) 2015/1787 would lead to potential infraction proceedings being carried out by the EU on failure to transpose. Therefore the preferred option is to transpose Commission Directive (EU) 2015/1787 and this could only be achieved by way of secondary legislation relating to private drinking water supplies.</p>

Will the policy be reviewed? It will be reviewed	If applicable, set review date: N/A
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Cost of Preferred (or more likely) Option		
Total outlay cost for business £m	Total net cost to business per year £m	Annual cost for implementation by Regulator £m

Does Implementation go beyond minimum EU requirements?		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
Are any of these organisations in scope?	Micro	Small	Medium
	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
			Large
			Yes <input type="checkbox"/> No <input type="checkbox"/>

The final RIA supporting legislation must be attached to the Explanatory Memorandum and published with it.

Approved by: Date:

Summary: Analysis and Evidence Policy Option

Description: Transposition of Directive 2014/52/EU

ECONOMIC ASSESSMENT (Option)

Costs (£m)	Total Transitional (Policy)		Average Annual (recurring)	Total Cost
	(constant price)	Years	(excl. transitional) (constant price)	(Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				
<p>Description and scale of key monetised costs by ‘main affected groups’ (Maximum 5 lines) The Department is responsible for monitoring private drinking water supplies. Directive (EU) 2015/1787 makes technical amendments to monitoring programmes and specifications for method analysis. There may be some additional laboratory monitoring costs to the Department due to new testing requirements requiring a change to the accredited standards and methods. Directive (EU) 2015/1787 however allows targeted risk based monitoring of drinking water supplies and it’s anticipated that this will reduce monitoring costs.</p>				
<p>Other key non-monetised costs by ‘main affected groups’ (Maximum 5 lines) Directive (EU) 2015/1787 introduces the requirement to establish and keep monitoring programmes under continuous review and confirm or update them at least every 5 years which has potential to add an administrative burden to the Department. However the Department currently reviews their monitoring regime of private water supplies on a yearly basis so impact will be limited.</p>				
Benefits (£m)	Total Transitional (Policy)		Average Annual (recurring)	Total Benefit
	(constant price)	Years	(excl. transitional) (constant price)	(Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				
<p>Description and scale of key monetised benefits by ‘main affected groups’ (Maximum 5 lines) Directive (EU) 2015/1787 amendments allow for better and more problem/risk based orientated monitoring of water supplies as provision for monitoring requirements is based on previous monitoring results supported by credible risk assessments. Therefore this may result in a lightening of the regulatory burden and financial costs to the Department for low risk supplies as flexibility in the monitoring of parameters and the frequency of sampling is allowed if a number of conditions to protect human health are met. It is anticipated that it is unlikely the introduction of the new requirements under Directive (EU) 2015/1787 would lead to any significant additional burden but will likely provide opportunities to reduce costs associated with monitoring private water supplies.</p>				

Other key non-monetised benefits by 'main affected groups' (Maximum 5 lines) Directive (EU) 2015/1787 is intended to better protect human health in relation to private drinking water supplies by making amendments to monitoring requirement provisions which are in line with current scientific and technical progress and which ensures coherence with other European Union Rules. As above, amendments also allow for more problem/risk orientated monitoring of private water supplies. Flexibility in the monitoring is allowed if a number of conditions are met to ensure human health is protected.

Key Assumptions, Sensitivities, Risks (Maximum 5 lines)

BUSINESS ASSESSMENT (Option)

Direct Impact on business (Equivalent Annual) £m				
Costs:	Benefits:	Net:		

Cross Border Issues (Option)

How does this option compare to other UK regions and to other EU Member States (particularly Republic of Ireland) Maximum 3 lines

The Directive will be similarly transposed in the Republic of Ireland and the rest of the UK.

Evidence Base

There is discretion for departments and organisations as to how to set out the evidence base. It is however desirable that the following points are covered:

- Problem under consideration;
- Rationale for intervention;
- Policy objective;
- Description of options considered (including do nothing), with reference to the evidence base to support the option selection;
- Monetised and non-monetised costs and benefits of each option (including administrative burden);
- Rationale and evidence that justify the level of analysis used in the RIA (proportionality approach);
- Risks and assumptions;
- Direct costs and benefits to business;
- Wider impacts (in the context of other Impact Assessments in Policy Toolkit Workbook 4, economic assessment and NIGEAE)

Problem under consideration

Directive 98/83/EC (Drinking Water Directive (DWD)), introduced in 1998, requires a regular review of its Annexes. Directive (EU) 2015/1787 amendment has been the first and essential adaptation to scientific and technical progress to date. Following a report on the evaluation, application and effectiveness of Directive 2011/92/EU and a public consultation, the amending Directive (EU) 2015/1787 came into force on 6 October 2015.

It is the responsibility of the Department of Agriculture, Environment and Rural Affairs to transpose this amending Directive in respect of private drinking water supplies into legislation for Northern Ireland. Its aims are to better protect human health by making technical amendments to Annexes II (minimum requirements of the monitoring programmes for all water intended for human consumption) and III (specifications for the method of analysis of different parameters) of the DWD in the light of current scientific and technical progress. Directive (EU) 2015/1787 allows for an improved implementation of EU rules by Member States and it removes unnecessary monitoring burdens based on credible risk assessments.

Rationale for intervention

With the introduction of the amending Directive (EU) 2015/1787 which was developed to improve monitoring of drinking water supplies, it is incumbent upon the Department of Agriculture, Environment and Rural Affairs as part of the Member State to transpose as appropriate the amending Directive (EU) 2015/1787 into private drinking water supply legislation to prevent the possibility of infraction proceedings and to ensure the protection of human health in relation to these supplies continues to be effective.

Policy objective

To implement Directive (EU) 2015/1787 ensuring that it is operational with respect to private drinking water supplies by 27 October 2017.

Description of options considered (including do nothing), with reference to the evidence base to support the option selection

Directive (EU) 2015/1787 was developed to give provision for a more focused, risk-based monitoring approach in relation to drinking water supplies while ensuring protection of public health. Directive (EU) 2015/1787 provisions also were made to reflect current scientific and technical progress and to ensure better implementation of European Union Rules. The options in

relation to this were to either transpose Directive (EU) 2015/1787 in relation to public drinking water supplies as appropriate or to do nothing.

To do nothing while considered was not a realistic option as Directive (EU) 2015/1787 would have to be implemented in Northern Ireland and other jurisdictions within the Member State to prevent the potential for infraction proceedings being carried out by the EU. The Department of Agriculture, Environment and Rural Affairs therefore has limited scope in putting into legislation the requirements as set out in the amended Directive (EU) 2015/1787.

Monetised and non-monetised costs and benefits of each option (including administrative burden)

Directive (EU) 2015/1787 amendments allow for better and more problem/risk based orientated monitoring of water supplies as provision for monitoring requirements is based on previous monitoring results supported by a credible risk assessments. Therefore this will result in a lightening of the regulatory burden and financial costs to the Department for low risk supplies as flexibility in the monitoring of parameters and the frequency of sampling is allowed if a number of conditions to protect human health are met. It is anticipated that it is unlikely the introduction of the new requirements under Directive (EU) 2015/1787 would lead to any significant additional burden but will likely provide opportunities to reduce costs associated with monitoring private water supplies.

There may however be some additional sampling and laboratory monitoring costs to the Department due to new method analysis and accredited standards requirements introduced by the amending Directive. The Directive also requires monitoring programmes to be kept under review and confirmed or amended at least every 5 years which has potential for additional administrative burdens. The Department however currently regularly review monitoring programmes on a yearly basis and in response to any incidences. Therefore the Department is of the opinion that the resources required to fully implement Directive (EU) 2015/1787 would overall be less to the resources required to fully implement the current DWD and any potential impact of administrative matters would be low due to a reduction in monitoring and regulatory burdens.

Rationale and evidence that justify the level of analysis used in the RIA (proportionality approach)

A major analysis of this matter has not been carried out by the Department of Agriculture, Environment and Rural Affairs in relation to the RIA, the rationale being that Directive (EU) 2015/1787 has been developed to improve water quality monitoring of private water supplies and reduce unnecessary monitoring burden. The amendments proposed are technical changes and it is considered that if there is additional burden on resources or administrative requirements this will be low as more problem targeted monitoring is anticipated to counter the cost of more stringent accredited monitoring methods and standards and any administrative impacts would be low.

Risks and assumptions

Risks would include infraction proceedings for non transposition and implementation. It is assumed by the Department of Agriculture, Environment and Rural Affairs that the appropriate transposition of the amending Directive (EU) 2015/1787 will lead to more targeted problem/risk orientated monitoring of private drinking water supplies while applying current scientific and technical advancements and techniques and implementation of EU rules by Member States will strengthen the protection of human health in relation to private drinking water supplies.

Direct costs and benefits to business

It is anticipated that the direct benefits to the Department for the monitoring of private drinking water supplies will be positive due to reduction in regulatory costs from more targeted risk based monitoring. Other business will not be impacted through the transposition of the amending Directive (EU) 2015/1787. Therefore there are no anticipated direct negative costs to business anticipated as a consequence of these proposed Regulations

Wider impacts (in the context of other Impact Assessments in Policy Toolkit Workbook 4, economic assessment and NIGEAE)

The introduction of the amending Directive (EU) 2015/1787 will not have any impact on other assessments to be carried out in relation to the making of this legislation.

Annex C: List of Individuals/Organisations consulted

DAERA - Internal

Department for Infrastructure

Department of Health

NI District Councils

Registered Private Water Supplies (owners/users/companies)

Environment and Planning Law Association for NI

Friends of the Earth

Food Standards Agency

Health and Safety Executive

Northern Ireland Environment Link

Northern Ireland Water

Public Health Agency

Tourism NI

Ulster Farmers Union

Confederation of Forest Industries

Development Planning Partnership

Loughs Agency

NI Freshwater Task Force

Northern Ireland Environmental Services Association

The Rivers Trust

Waterways Ireland

Annex D: Consultation Questions Consultation Questions

The Department welcomes any views or comments on any aspect of this consultation paper, in particular:-

1. *Do you have any comments on monitoring programme requirements?*

2. *Do you have any comments on the new risk based approach to monitoring?*
3. *Do you have any comments in relation to the proposed amendments to improve the clarity of the regulations?*
4. *Do you have any general views on the proposed changes to the 2009 Regulations*