

SL(5)147 - The Water Abstraction (Transitional Provisions) Regulations 2017

Background and Purpose

These Regulations contain transitional provisions relating to the licensing of water abstraction by certain categories of persons, in the light of amendments made by the Water Act 2003 (c. 37) to the Water Resources Act 1991 (c. 57) ("the 1991 Act"). Those amendments, which come into force on the same date as these Regulations, limit or remove certain exemptions from the restriction on abstracting water in the 1991 Act.

Procedure

Negative

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument:

1. These Regulations are made in English only (Standing Order 21.2(ix). The Explanatory Memorandum states that the Regulations, being a composite Statutory Instrument, "apply to both England and Wales, and are subject to approval by the National Assembly for Wales and by Parliament. It is therefore not considered reasonably practicable [by the Welsh Ministers] for these instruments to be made bilingually."
2. Regulation 5(2) refers to 'paragraph 2(3)(iv) of Schedule 2 to the Water Resources (Abstraction and Impounding) Regulations 2006. This should refer to paragraph 2(3)(b)(iv). As the intention is clear, this would have been appropriate for correction on publication, had the Regulations not already been published. (Standing Order 21.2(vi))

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument:

3. A footnote to regulation 4(1) refers the reader to section 221 of the Water Resources Act 1991 for the definition of "appropriate agency". As the explanation is Natural Resources Wales in relation to Wales and the Environment Agency in relation to England, it would have been more helpful to have said so.

Implications arising from exiting the European Union

The Regulations contain references to classifications and a definition in Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy. Whilst they would continue to work following the UK's departure from the European Union, their appropriateness will need to be reviewed. This will be particularly important in relation to water, where, as in the current case, a common position is needed for England and Wales. It would be appropriate for the Welsh Ministers and the Secretary of State to amend the references using the powers relied upon to make these Regulations.

Government Response

No government response is required.



Committee Consideration

The Committee considered the instrument at its meeting on 20 November and reports to the Assembly in line with the technical and merits points identified.

