

Drinking Water Inspectorate's Measures (08/05/2015 to 08/06/2017)

A. Introduction¹

The Small Business, Enterprise and Employment (SBEE) Act 2015 requires the Government of the day to publish a Business Impact Target (BIT) in respect of Qualifying Regulatory Provisions² that come into force or cease to be in force during the Parliamentary period. On 3 March 2016, the Government announced a target to deliver “a saving of £10 billion to business and voluntary or community bodies from qualifying measures that come into force or cease to be in force during this Parliament.”

The Enterprise Act 2016 extended the provisions of the SBEE Act to include regulators that are legally separate from UK Ministers and are independent of Government. On 29 March 2017, secondary legislation came into force that brought a list of such regulators into scope of the Business Impact Target. This requires each “listed regulator” to publish the following documents (the “required documents”) within two weeks of a reporting period ending:

- A list of the Qualifying Regulatory Provisions that they brought into force during the preceding reporting period; and
- A summary of the Non-Qualifying Regulatory Provisions³ that they brought into force during the same period.

Regulatory Provision⁴ measures are determined to be either Non-Qualifying Regulatory Provisions (NQRPs) or Qualifying Regulatory Provisions (QRPs) following criteria set in the SBEE Act and guidance issued by the Department for Business, Energy & Industrial Strategy. Qualifying Regulatory Provisions are included within the Government's BIT.

The Inspectorate has assessed all of its measures introduced between 08/05/2015 to 08/06/2017 (the parliamentary period) and concluded that only one measure was a Qualifying Regulatory Provision. This measure was parts of the Water Supply (Water

¹ Information included from the Department for Business, Energy & Industrial Strategy (BEIS) Business Impact Target: Interim Report 2016- 2017. Please note, the Inspectorate did contribute to this report as required but unfortunately the Inspectorate's information was not included due to an oversight by BEIS.

² A qualifying regulatory provision is a regulatory provision that the Government has determined will count towards its Business Impact Target.

³ A non-qualifying regulatory provision is a regulatory provision that the Government has determined will not count towards its Business Impact Target.

⁴ A regulatory provision in relation to a business activity is defined in Section 21(3) of the SBEE Act as “a statutory provision which (a) imposes or amends guidance, in relation to the activity, or (b) relates to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions, standards or guidance which relate to the activity”

Quality) Regulations 2016 (England) which was assessed as a QRP⁵ and received a 'green light opinion' from the Regulatory Policy Committee (RPC). The majority of the Inspectorate's measures were classified as NQRPs, with some non-Regulatory Provisions. The entirety of the Inspectorate's measures were submitted to the RPC for review and approved on 06/06/2017 (reference: RPC-3832(1)-DEFRA).

A summary of Inspectorate's measures for the period 08/05/2015 to 08/06/2017 have been included below.

B. Summary of all the Drinking Water Inspectorate's Measures

Business Impact Target Reporting Period Covered: 08/05/2015 to 08/06/2017

List of Main Abbreviations used					
IL	Information Letter	RP	Regulatory Provision	SI	Statutory Instrument
DWI	Drinking Water Inspectorate (the Inspectorate)	Non-RP	Non-Regulatory Provision	RPC	Regulatory Policy Committee
NQRP	Non-Qualifying Regulatory Provision	BIT	Business Impact Target	BRU	Better Regulation Unit

⁵ QRPs are required to undergo certain levels of assessments depending upon a proportionality test but include such things as an Impact Assessment which reviews the economic impact of measures upon businesses.

1. Non-Qualifying Regulatory Provisions

1.1 NQRPs: Regulator Activities⁶

Excluded Category ⁷	Summary of measure(s), including any impact data where available
A – EU and international	<p>A1. IL 05/2016 (Radon aspect), This concludes as an NQRP as it is a EU directive requirement, with no additional provisions.</p> <p>A2. IL 05/2015 Publication of research: ‘Understanding the implications of the European requirements relating to Radon in drinking water’. This is a NQRP due to being a direct implementation of the EU Euratom Directive, with no additional provisions. Could also be classified as a NQRP due to water companies being considered monopolies (exclusion category B) and is a communication activity which is a category L2 exclusion (communication of research).</p>
B – Economic Regulation (category used for a monopoly industry)	<p>B1. IL 01/2016 Code of practice on technical aspects of fluoridation of water supplies 2016. This concludes as a NQRP due to water companies being monopolies. Would also have concluded as a NQRP due to being a change to an industry code which is exclusion category K.</p> <p>B2. Guidance on the use of ultraviolet (UV) irradiation for the disinfection of public water supplies. This concluded as a NQRP due to water companies being monopolies. Could also have been a NQRP due to being Communications Activity and an Industry Code (exclusion categories L2 and K respectively) .</p> <p>B3. Redacted as not issued in relevant reporting period.</p> <p>B4. IL 04/2015 (Research). The IL followed research into the health affects of chromium VI upon which the DWI changed its policy now requiring companies to monitor if there is a risk in their supply area based on new regulatory limits. Deemed as NQRP due to water companies being monopolies.</p>

⁶ using the RPC’s NQRP template

⁷ As defined by the Better Regulation Framework Manual

	<p>B5. IL 02/2017 'Issue of Chromium VI' new information letter (published 05/05/2017). Policy change, following research into the health affects of chromium VI. Concluded as an NQRP due to water companies being monopolies.</p> <p>B6. IL 05/2016 (non-Radon aspects). This information letter to the water industry outlined the new requirements for companies applying for radioactivity monitoring waivers under the new Regulations. The requirement for this IL stemmed from EU led changes to radon monitoring but also included information on other radioactivity requirements (hence the need to assess parts of this IL separately). These were included to standardise the whole radioactivity licencing process in line with the requirements which were introduced as a result of EU directive changes. This concludes as a NQRP due to water companies being monopolies.</p> <p>B7. IL 03/2015 Regulation 31 approval of products and substances intended for disinfection, disinfection or cleaning agents of waterworks apparatus and distribution systems. This measure changes restrictions relating to the procurement of products used by removing restrictions. Restrictions have been lifted, provided the water companies apply adequate safe guards. Regulation 31 applies to the Water companies in England and Wales, which are effective monopolies.</p> <p>B8. Redacted as not issued in relevant reporting period.</p> <p>B9. Redacted as not issued in relevant reporting period.</p>
C – Price Control	Nothing to Report
D – Civil Emergencies	Nothing to Report
E – Fines and Penalties	Nothing to Report
F – Pro-competition	Nothing to Report
G – Large Infrastructure Projects	Nothing to Report

H – Misuse of Drugs/National Minimum Wage	Nothing to Report
I – Systemic Financial Risk	Nothing to Report
K – Industry Codes	Nothing to Report
L1 – Casework	<p>L1.1 The Inspectorate served 220 Legal Instruments within this reporting period.</p> <p>L1.2 The Inspectorate issued 28 Radioactivity Notices to water companies during this reporting period.</p>
L2 – Education, communications and promotion	Nothing to Report
L3 – Activity related to policy development	Nothing to Report
L4 – Changes to management of regulator	Nothing to Report

1.2 Non-Qualifying Regulatory Provisions (Statutory Instruments)

Measure	Description	Reason why SI is NQRP
Requirement to monitor 37 degree colony count removed from The Water Supply (Water Quality) Regulations 2016	The requirement for water companies to analyse water for 37 degree colony count was removed in the 2016 revision of the Water Supply (Water Quality) Regulations as part of transposition from EU requirements. This measure was not specifically highlighted in the accompanying Information Letter to the industry or the Impact Assessment.	<p>Opinion from BRU with regards to reporting: The part not specifically highlighted (a parameter removed as transposed from EU legislation) in the Water Supply (Water Quality Regulations) is not required to be reported as the SI as a whole was passed by BRU and RPC.</p> <p>This measure is concluded as a NQRP regardless, due to being a direct transposition of EU Drinking Water Directive.</p>
The Water Industry (Suppliers' Information) Direction 2017; Information Letter & Directive	<p>Update of the direction to incorporate non-household competition and to allow more contemporaneous reporting of water quality data. Formalises procedures already in place for risk assessment report submission. The following changes applied;</p> <ol style="list-style-type: none"> 1. Changes necessary due to commencement of competition with respect to non-household supplies. 2. Update requests for data to reflect needs of the Inspectorate – main provision being the bringing forward of the reporting of compliance data to five weeks in arrears (from 7 weeks). 3. Formalise arrangements already in place for the provision of risk assessment records. <p>The Information Direction applies to the Water companies of England and Wales.</p>	The changes to the Direction concluded as NQRP due to being directly associated with specific regulator casework: compliance, risk assessment and event report data returns. This measure would also be excluded under category F for promoting competition (the parts that refer to retention of data for non-household customers) and under category B for monopoly companies.

2. Non Regulatory Provisions (non-RPs)

2.1 Non-RPs: Regulator Activities

Measure	Description	Reason non-RP
IL 03/2016	<p>An update of those products which have been removed from the list of products approved under Regulation 31(4)a of the Water Supply (Water Quality) Regulations 2000, since November 2014.</p>	<p>This is related to the procurement of products used by the industry, by altering the list of those approved and is therefore considered not to be a Regulatory Provision. The document is an information-only letter, which provides updates on the products removed from the approved products list, so that water companies can ensure they are compliant with the Regulations. The Regulations apply to the Water companies in England and Wales, which are effective monopolies.</p>
IL 06/2016 (catchment management undertakings)	<p>Update to catchment management undertakings</p>	<p>Whilst the letter gives guidance on legal instruments which have a longer life, the provision is to alter a single reporting date as a one-off occurrence in order to align the report with those required by other regulators, thus avoiding repeated work and reducing regulatory burden. As a result of the measure's timeframe being less than 12 months, it is concluded as non-Regulatory Provision. Had the measure been a Regulatory Provision it would have concluded as a NQRP due to water companies being monopolies.</p>
IL 07/2016 (Reg31)	<p>Approved products for use in public water supplies in the United Kingdom - Improvements to the secretary of State's list and notice of intention to revoke approvals of some products.</p>	<p>Measure concluded as a non-RP as it is related to procurement (the Regulation 31 approved products list). Had it been a RP, this would have concluded as a NQRP under the exemption of individual casework/licences and monopolies.</p>

Guidance for reporting on Undertakings for metaldehyde and/or other pesticides in March 2017	<p>New guidance (dated 14/12/2016) on the submission of annual returns for pesticides legal instruments in 2017 (returns delayed until March 2017 to coincide with the requirements of other regulators and enable aligned reporting)</p>	<p>This concluded as not a regulator provision due to being active less than 12 months. Affects one submission in 2017 only.</p>
Boil water advice	<p>Publication of a World Health Organisation (WHO) advice sheet (WHO/FWC/WSH/15.02) on boil water advice (how it works and why/when to use it) published on DWI website.</p>	<p>Not a regulatory provision; the guidance is factual only (re-publication of WHO advice sheet) and not related to legislation or regulatory activity.</p>
PWS Guidance & Tools (England & Wales)	<p>Including: <u>2015:</u> Manual on treatment for small water supply systems (June 2015), Q&A on Radon (Oct 2015) and Technical definition of wholesomeness in relation to water used for toilet flushing in private water supplies (Dec 2015) <u>2016:</u> Regulation 9/10 Flow chart, Sampling Manual, Information Note on Regulation 5 (21/02/2016), new PWS Risk Assessment tools (Lite, PDS and Toilet Flushing Risk Assessment tools), Record Keeping Guidance and 'A review of the risks to Drinking Water Quality at rural public buildings in England and Wales' (publication of WRc report March 2016). <u>Ongoing:</u> continual minor updates, Private Water Supplies Risk Assessment tool updates and Private Water Supplies annual reports.</p>	<p>RPC & BRU confirmed Regulatory activities relating to Private Water Supplies are not Regulatory Provisions because the guidance is to a public body and does not directly concern businesses. It would be for Local Authority to decide the impact the activity would have on businesses. This advice followed a meeting in February 2017 with Defra's BRU in which questions were raised by the Inspectorate and subsequently confirmed by Defra's BRU after conferring with RPC.</p>

Chief Inspector's Report	The Inspectorate publishes a set of annual reports known as the Chief Inspector's Annual Reports	These reports intend to review the outcomes of the requirements and standards in securing compliance with the Water Supply (Water Quality) Regulations through the objectives they set.
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2.2 Non-RPs: Statutory Instruments

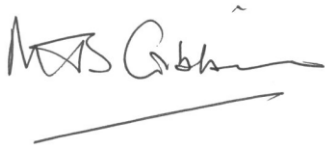
Measure	Description	Reason non-RP
New fees Order	New Fees Order to replace the 2013 Order made under Public Bodies Act 2011. Accompanied by IL 02/2016 .	This is not a regulatory provision as it is exempt under the Small Business, Enterprise and Employment (SBEE) Act 2015 as there has not been a change to the regulators activity just how these activities are charged (the Inspectorate now charge per hour whereas previously the charge was for a 7 hour period).

3. Other

Measure	Description	Reason Other
Water Supply (Water Quality) Regulations , IL 04/2016 & Guidance	New SI (update of 2000 version) and associated guidance.	Already reported to Defra's BRU and RPC (Green light opinion). Defra policy tracker entry ref: DEFRA (PT)75. Parts were confirmed to be NQRPs (e.g. EU exemptions) and parts QRPs.
Private Water Supplies Regulations 2016 & Guidance	New SI (update of 2009 version)	Already reported to Defra's BRU. Not a Regulatory Provision as the SI is for Local Authorities to enforce and is therefore not directly related to businesses.

Drinking Water Inspectorate
Department for the Environment, Food and Rural Affairs
Non-qualifying regulatory provision assurance statement:
confirmed

The Regulatory Policy Committee (RPC) is content that, on the basis of the summary information provided, none of the measures or activities presented in the summary document should be considered as qualifying regulatory provisions for the purposes of the business impact target. The RPC has not been asked to provide a detailed view on any specific activity in this statement or comment on any activities not covered in either this summary document or a separate qualifying regulatory provision assessment.



Michael Gibbons CBE, Chairman