EXPLANATORY MEMORANDUM TO

THE COUNTY OF MERSEYSIDE ACT 1980 (AMENDMENT) REGULATIONS 2017

2017 No. 243

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of the instrument is to make an amendment to the County of Merseyside Act 1980 to preserve the rights of the Docks Company, the owner and operator of the docks in Liverpool and Sefton (the dock estate), to have some sewerage charges waived by the sewerage undertaker (currently United Utilities Ltd) and, where appropriate, any sewerage licensee that will serve the Docks Company from April 2017.

2.2 The Docks Company, unless it agrees otherwise, does not have to pay any charges associated with the provision or use of public sewers or for any new connections with the public sewerage system. The Docks Company does, however, have to pay charges associated with the treatment and disposal of sewage from the dock estate.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Chapter 4 to Part 1 of the Water Act 2014 ('the 2014 Act') provides the Secretary of State with powers to make regulations to allow water and sewerage undertakers to apply to the Secretary of State to exit the retail market for non-household premises. Part 1 of the 2014 Act also amends the Water Industry Act 1991 to extend the scope of the non-household retail market to include sewerage services.

4.2 Regulation 61 of the Water and Sewerage Undertakers (Exit from Non-household Retail Market) Regulations 2016 ('the Exit Regulations') provides the Secretary of State with powers to amend or repeal any local statutory provision that imposes duties on a relevant undertaker relating to the supply of retail services. Regulations under this provision may be made at the request of a relevant undertaker and with the agreement of the acquiring licensee or licensees.

4.3 Section 83 of the County of Merseyside Act 1980 requires the sewerage undertaker to waive certain charges relating to the provision of sewerage services that might otherwise be imposed on the Dock Company.

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is England and Wales.

6. European Convention on Human Rights

6.1 The Parliamentary Under Secretary of State for the Environment has made the following statement regarding Human Rights:

"In my view the provisions of the County of Merseyside Act 1980 (Amendment) Regulations 2017 are compatible with the Convention rights."

7. Policy background

7.1 The 2014 Act will reform the water industry to help us face the future challenges arising from a growing population, increasing customer expectations and changing climate. These reforms include the introduction of retail competition in sewerage services for non-household customers. All businesses, charities and public bodies in the areas of sewerage undertakers wholly or mainly in England will be able to switch their sewerage service provider for the first time from April 2017. This extends the scope of an existing retail market which currently only allows large users of water to switch their water supplier.

7.2 The 2014 Act also allows water and sewerage undertakers to apply to the Secretary of State for permission to exit the retail market. United Utilities Water Ltd, a water and sewerage undertaker serving the north west of England, was granted permission to exit the retail market when it opens in April 2017. All its non-household customers will be transferred to the acquiring licensee, Water Plus Ltd, when the reformed retail market opens in April 2017. The Docks Company will either have its sewerage services transferred to Water Plus Ltd or choose to switch to an alternative licensee on that day or at a later date.

7.3 The Regulations are required to ensure that the Docks Company is able to continue to benefit from the charges waiver following the exit of United Utilities Water Ltd from the retail market and whenever it decides to switch to an alternative licensee.

8. Consultation outcome

8.1 No formal consultation was undertaken on this amendment as it makes a technical and relatively minor amendment that is consequential on provisions of the 2014 Act and the Exit Regulations, which were both scrutinised by Parliament. However, United Utilities Water Ltd sought the agreement of Water Plus Ltd before asking the Department for this change. United Utilities has also consulted the Docks Company.

9. Guidance

9.1 There is no guidance to accompany these Regulations.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies. The Regulations preserve the right of the Docks Company to have some sewerage charges waived by both the sewerage undertaker and any sewerage licensee that subsequently serves it. The Regulations therefore have a neutral impact on the Docks Company and the businesses that provide sewerage services to the dock estate.

10.2 An Impact Assessment has not been prepared for this instrument but one was produced covering retail reforms in advance of the Water Bill entering Parliament in June 2013. This was updated and re-published following Royal Assent in May 2014. The impact assessment is available on legislation.gov.uk alongside the 2014 Act.

11. Regulating small business

11.1 No steps are necessary to minimise the impact of the requirements on small businesses (employing up to 50 people).

12. Monitoring & review

12.1 The provisions of the 2014 Act and, by extension, the provisions of this instrument, will be subject to the normal post-legislative review three to five years after Royal Assent.

13. Contact

13.1 David Jones at the Department for Environment, Food and Rural Affairs Telephone: 020 802 63003 or email: david.jones@defra.gsi.gov.uk can answer any queries regarding the instrument.