
STATUTORY RULES OF NORTHERN IRELAND

2017 No. 211

The Private Water Supplies Regulations (Northern Ireland) 2017

PART 4

Action in The Event of Failure

Provision of information

15.—(1) If the Department considers that a private supply is a potential risk to human health it must promptly take appropriate steps to ensure that people likely to consume water from it—

- (a) are informed that the supply constitutes a potential risk to human health;
- (b) where possible, are informed of the degree of the potential risk; and
- (c) are given advice on appropriate measures to allow them to minimise any such risk.

(2) The Department must notify the Public Health Agency and the District Council for the district in which the private supply is situated regarding the steps taken under paragraph (1).

Investigation

16. The Department must carry out an investigation to establish the cause if it suspects that a private water supply monitored under these regulations is unwholesome or if an indicator parameter in a sample exceeds the concentrations or values prescribed in Schedule 1.

Procedure following investigation

17.—(1) Once the Department has established the cause of the water being unwholesome in a private water supply monitored under these regulations, it must act in accordance with paragraphs (2) to (4).

(2) If the cause of the water not being wholesome is attributable to the domestic distribution system within a private dwelling, the Department must promptly offer advice to the consumers on measures necessary for the protection of health.

(3) If paragraph (2) does not apply and if it cannot solve the problem informally the Department—

- (a) may, on application by a relevant person, grant an authorisation to that person if the conditions in regulation 18 (2) are fulfilled; and
- (b) if it does not grant an authorisation must serve a notice in accordance with Article 119 of the 2006 Order or serve a notice under regulation 19, if the conditions in that regulation are fulfilled.

(4) Before serving a notice the Department must have regard to any agreement, contract, licence or other document produced to the Department relating to the terms on which water is supplied.

Authorisations of different standards

18.—(1) A relevant person may apply to the Department for the granting of an authorisation under this regulation.

(2) The Department may grant an authorisation of different standards under this regulation if—

- (a) the only cause of the water not being wholesome is that a parameter in Table B of Part 1 of Schedule 1 (“Table B”) is not complied with;
- (b) the Department has consulted the relevant District Council and the Public Health Agency and has taken their views into account;
- (c) granting the authorisation does not result in a risk to human health; and
- (d) the supply of water cannot be maintained by any other reasonable means.

(3) An authorisation must require the relevant person to take action over a period of time to ensure that the parameters in Table B are complied with and must specify—

- (a) the relevant person;
- (b) the supply concerned;
- (c) the grounds for granting the authorisation;
- (d) the parameters concerned, previous relevant monitoring results, and the maximum permissible values under the authorisation;
- (e) the geographical area, the estimated quantity of water supplied each day, the number of persons supplied and whether or not any food-production undertaking is affected;
- (f) an appropriate monitoring scheme to be undertaken by either the Department or the relevant person, with an increased monitoring frequency where necessary;
- (g) a summary of the plan for the necessary remedial action, including a timetable for the work and an estimate of the cost and provisions for reviewing progress; and
- (h) the duration of the authorisation.

(4) If the Department grants an authorisation, and action is taken in accordance with the timetable of works specified in the authorisation, the Department must not serve a notice under Article 119 of the 2006 Order concerning the matters specified in the authorisation without first amending or revoking the authorisation.

(5) The duration of the authorisation must be as short as possible and in any event must not exceed three years.

(6) The Department must ensure that people affected are promptly informed of the authorisation and its conditions and, where necessary, ensure that advice is given to particular groups for which the authorisation could present a special risk.

(7) The Department must inform the European Commission within two months of any authorisation concerning an individual private supply exceeding 1000m³ a day as an average or serving more than 5000 persons unless it considers the reason for the authorisation to be trivial and action is carried out which remedies the problem within 30 days.

(8) Towards the end of the duration of the authorisation the Department must review it to determine whether sufficient progress has been made. If the Department considers that sufficient progress has not been made, it may grant a second authorisation. If the Department intends to grant a second authorisation, this must be communicated to the European Commission along with the results of the review.

(9) Subject to paragraph (8), the Department may grant a second authorisation for up to three years duration.

(10) If towards the end of the second period of authorisation the Department considers that sufficient progress has not been made the Department may grant a third period of authorisation but only if—

- (a) the Department considers that there are exceptional circumstances to justify doing so; and
- (b) the European Commission confirms its approval.

(11) The Department may revoke or amend any authorisation at any time, and in particular may revoke or amend it if the timetable for remedial action has not been adhered to.

Notice on potential risk to human health

19.—(1) The Department must serve a notice under this regulation on a relevant person instead of a notice under Article 119 of the 2006 Order for a private water supply monitored under these regulations if—

- (a) the supply is a potential risk to human health; and
- (b) serving the notice will not create a greater risk to human health than not serving it.

(2) The notice must prohibit the supply of water, or restrict what the water may be used for and must also specify—

- (a) the relevant person;
- (b) the supply concerned;
- (c) the grounds for the notice;
- (d) the parameters concerned;
- (e) previous relevant monitoring results;
- (f) the geographical area, the estimated quantity of water supplied each day and whether or not any food production undertaking is affected; and
- (g) any other remedial action that the Department considers necessary to protect human health.

(3) The Department must ensure that consumers are promptly informed of the service of the notice and must provide any necessary advice to protect human health.

(4) The Department must notify the Public Health Agency, and District Council for the district in which the private supply is situated, regarding a notice issued under this regulation.

(5) The notice may be subject to conditions and may be amended by a further notice at any time.

(6) The Department must revoke the notice as soon as there is no longer a potential risk to human health.

Appeals

20.—(1) Any person served with a notice under regulation 19 who is aggrieved by that notice may appeal in writing to the Appeals Commission within 28 days of the date of the notice and shall specify the grounds for appeal.

(2) A notice under regulation 19 shall have effect pending determination of the appeal.

Powers of the Appeals Commission

21. On an appeal against a notice served under regulation 19, the Appeals Commission may either cancel the notice or confirm it, with or without modification.