
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 282

**The Water Intended for Human Consumption
(Private Supplies) (Scotland) Regulations 2017**

PART 1

GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 and come into force on 27th October 2017.

(2) These Regulations extend to Scotland only.

Application

2.—(1) Subject to paragraphs (2) and (3), these Regulations, except Part 10 and schedule 10, do not apply in relation to—

- (a) water introduced into, or supplied through or from, any part of the public water supply system, including water supplied by Scottish Water pursuant to an arrangement under section 6(1)(b)(licence authorisation) of the Water Services etc. (Scotland) Act 2005⁽¹⁾;
- (b) water supplied by Scottish Water by any other means, including from a tanker or in bottles or containers;
- (c) water supplied with the help of services provided by Scottish Water, as described in section 30 (maximum charges for services provided with help of Scottish Water) of the Water Industry (Scotland) Act 2002⁽²⁾;
- (d) water which is exempt from the provisions of these Regulations by virtue of paragraph (4);
- (e) water which is both intended for sale in bottles or containers and either—
 - (i) recognised as a natural mineral water by regulation 4(1) of the 2007 Regulations; or
 - (ii) required by regulation 10(1) or 13 of the 2007 Regulations to meet the requirements of schedule 2 of those Regulations;
- (f) water which is a medicinal product within the meaning of [Directive 2001/83/EC](#) of the European Parliament and of the Council on the Community code relating to medicinal products for human use⁽³⁾;
- (g) water used exclusively for the purposes of washing a crop after it has been harvested where the quality of the water has no influence, either directly or indirectly, on the health of any person consuming the crop, or food or drink derived from the crop; or

(1) [2005 asp 3](#).

(2) [2002 asp 3](#). Section 30 was amended by section 21(2) of the Water Services etc. (Scotland) Act 2005 ([asp 3](#)).

(3) OJ L 311, 28.11.2001, p.67, last amended by [Directive 2012/26/EU](#) of the European Parliament and of the Council (OJ L 299, 27.10.2012, p.1).

- (h) water used during the distillation of spirits which is used—
 - (i) exclusively in the mashing process;
 - (ii) exclusively for washing plant; or
 - (iii) in the mashing process and for washing plant, but for no other purposes,
 where the quality of the water has no influence, either directly or indirectly, on the health of any person consuming the spirits, or food or drink derived from the spirits.

(2) Except in a case where these Regulations do not apply in relation to water by virtue of paragraph (1)(a) to (f), the following provisions apply in relation to water used for any purpose specified in paragraph (1)(g) or (h):—

- (a) regulations 5 to 7 and 9; and
- (b) paragraphs 1(a) and (c), 2(a) to (c) and (e) to (g) and 4 of schedule 1.

(3) The parameters in Table C apply only—

- (a) for the purposes of monitoring pursuant to regulations 18 and 19; and
- (b) for the fulfilment of obligations imposed by regulations 21 to 23.

(4) Water supplied from every part of a private water supply system which (either or both)—

- (a) provides (in total) less than 10 m³ of water a day (as an average); or
- (b) serves (in total) fewer than 50 persons,

is exempt from the provisions of these Regulations, unless any of the water is supplied (either or both)—

- (a) as part of a commercial or public activity; or
- (b) to any premises used for a commercial or public activity.

(5) Where water is exempt from the provisions of these Regulations under paragraph (4), the enforcing authority in relation to the water must ensure that any person who may reasonably be expected to consume water from the supply is—

- (a) informed that water from the supply is exempt from the provisions of these Regulations;
- (b) informed of any action that can be taken to protect human health from the adverse effects resulting from any contamination of such water; and
- (c) promptly given appropriate advice, if a potential danger to human health arising out of the quality of such water is apparent to the enforcing authority.

Interpretation

3.—(1) In these Regulations—

“the 2007 Regulations” means the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007(4);

“abstracted” includes, as the case may be, collected or otherwise obtained, and “abstraction” is to be construed accordingly;

“the appropriate register” means the register which is required to be kept by the enforcing authority for the area in which the premises is situated;

“area”, in relation to a local authority, means the local government area (within the meaning of the Local Government etc. (Scotland) Act 1994(5)) for which the local authority is constituted;

(4) S.S.I. 2007/483, amended by S.S.I. 2009/273, S.S.I. 2010/89, S.S.I. 2011/94, S.S.I. 2014/312, S.S.I. 2015/100 and S.S.I. 2015/363.

(5) 1994 c.39.

“body of water” has the same meaning as in section 28(1) of the Water Environment and Water Services (Scotland) Act 2003(6);

“building” includes tents, vans, sheds and similar structures, and any facility on land—

(a) for a person to have access to a supply of water in pipes; or

(b) which provides a person with a supply of water in pipes;

“by notice” means by notice given in writing (whether by electronic means or otherwise);

“disinfection” means a process of water treatment to remove or render harmless to human health every pathogenic micro-organism and pathogenic parasite that would otherwise be present in the water; and “disinfect” and “disinfected” are to be construed accordingly;

“distribution network”—

(a) in a case where a private water supply system distributes water to two or more buildings, means the parts of the supply system which distribute the water from its source to each point at which those parts of the supply system connect to associated pipework, fittings or appliances which distribute the water to, or throughout, an individual building; and

(b) in a case where a private water supply system distributes water to one building only, means the parts of the supply system which distribute the water from its source to each point at which those parts of the supply system connect to associated pipework, fittings or appliances which distribute the water throughout the building in question;

“domestic distribution system” means the parts of a private water supply system which are installed between the taps that are normally used for human consumption of water and the distribution network, but only in so far as they are not the responsibility of a water supplier;

“Drinking Water Quality Regulator for Scotland” means a person appointed under section 7(1) of the Water Industry (Scotland) Act 2002;

“electronic means” means electronic equipment for processing (including digital compression) and storage of data which is transmitted, conveyed and received by wire, radio, optical or other electromagnetic means;

“emergency notice” means a notice under regulation 32(2);

“enforcement notice” means a notice under paragraph 1(1) of schedule 7;

“enforcing authority”, in relation to water, means a local authority for an area within which is a point of compliance in relation to the water; but the local authority is an enforcing authority only in relation to water which is, or is to be, supplied to or used at the point of compliance;

“Health Board” means a Health Board constituted by order under section 2(1)(a) of the National Health Service (Scotland) Act 1978(7);

“in writing” means any expression consisting of words or figures which can be read, reproduced and subsequently communicated, including any such expression which is transmitted and stored by electronic means;

“indicative dose” means the committed effective dose for one year of ingestion resulting from all radionuclides whose presence has been detected in a supply of water, of natural and artificial origin, but excluding tritium, potassium-40, radon and short-lived radon decay products;

“information notice” means a notice under regulation 28(1);

(6) 2003 asp 3.

(7) 1978 c.29. Section 2(1) was amended by paragraph 1 of schedule 7 of the Health and Social Services and Social Security Adjudications Act 1983 (c.41) and renumbered as section 2(1)(a) by section 28(a)(i) of the National Health Service and Community Care Act 1990 (c.19). Section 2(1)(a) was amended by paragraph 1(2)(a) of schedule 1 of the National Health Service Reform (Scotland) Act 2004 (asp 7), and by paragraph 2(2) of schedule 2 of the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13).

“limit of detection” means the output signal or concentration value above which it can be affirmed, with a stated level of confidence, that a sample is different from a blank sample containing no determinand of interest;

“limit of quantification” means a stated multiple of the limit of detection at a concentration of the determinand that can reasonably be determined with an acceptable level of accuracy and precision (which can be calculated using an appropriate standard or sample, and may be obtained from the lowest calibration point on the calibration curve, excluding the blank);

“local authority”, in relation to an area, means the council constituted under section 2 of the Local Government etc. (Scotland) Act 1994⁽⁸⁾ for that area;

“owns” means owns whether jointly or individually, and cognate expressions are to be construed accordingly;

“parameter” means a parameter referred to in the first column of Table A, Table B or Table C, except in regulation 20 and schedule 4 where it means a parameter referred to in paragraph 2 of Part A of schedule 4 or in the first column of Table 1, Table 2 or Table 3 in that schedule;

“parametric value”, in relation to a parameter, means the parametric value in the second column of Table A, Table B or Table C which corresponds to the parameter, or the parametric value which otherwise applies by virtue of a derogation granted under schedule 5;

“person” means a person other than—

- (a) Scottish Water; or
- (b) any person acting on behalf of Scottish Water or under its authority;

“point of compliance”, in relation to water, except where otherwise specified⁽⁹⁾ means—

- (a) in the case of water supplied from part of a private water supply system, the point within premises at which it emerges from a tap normally used for human consumption of water;
- (b) in the case of water supplied from a tanker, the point at which it emerges from the tanker;
- (c) in the case of water put into a bottle or container (which is not intended for sale for drinking by humans), the point at which the water is put into the bottle or container; and
- (d) in the case of water intended to be used in a food-production undertaking, the point at which the water is to be used in the undertaking;

“premises”, except where otherwise defined, includes land⁽¹⁰⁾;

“premises where water is supplied to the public” includes schools, hospitals and restaurants;

“private water supply system” and “supply system” means a water supply system, excluding—

- (a) a water supply system, any part of which is part of the public water supply system; and
- (b) any other water supply system used to supply water with the help of services provided by Scottish Water, as described in section 30 of the Water Industry (Scotland) Act 2002⁽¹¹⁾;

“public water supply system” has the same meaning as it has in section 28(1) of the Water Services etc. (Scotland) Act 2005⁽¹²⁾;

“register” means a register which is required to be maintained under regulation 5;

“relevant person” means—

- (a) in relation to a supply of water in pipes to premises, a person who—

⁽⁸⁾ 1994 c.39.

⁽⁹⁾ See Note 5 to Table B in schedule 2.

⁽¹⁰⁾ By virtue of section 25 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10), land includes buildings and other structures, land covered with water, and any right or interest in or over land.

⁽¹¹⁾ 2002 asp 3. Section 30 was amended by section 21(2) of the Water Services etc. (Scotland) Act 2005 (asp 3).

⁽¹²⁾ 2005 asp 3.

- (i) owns any part of the private water supply system; or
- (ii) owns or occupies—
 - (aa) the premises;
 - (bb) land from which any part of the water is abstracted (from the water environment); or
 - (cc) land in, on or over which any part of the private water supply system is installed;
- (iii) exercises powers of management or control in relation to—
 - (aa) the premises;
 - (bb) land from which any part of the water is abstracted (from the water environment);
 - (cc) land in, on or over which any part of the private water supply system is installed;
 - (dd) a body of water or other source from which any part of the water is abstracted;
 - (ee) the supply of water in pipes; or
 - (ff) the private water supply system; or
- (iv) is a water supplier;
- (b) in relation to a supply of water from a tanker, a person who supplies the water from the tanker or exercises powers of management or control in relation to the supply of water from the tanker; and
- (c) in relation to a supply of water in bottles or containers, a person who puts the water into the bottles or containers or exercises powers of management or control in relation to the supply of water in bottles or containers;

“remediation notice” means a notice under paragraph 1(1) of schedule 6;

“risk assessment” means the most recent risk assessment carried out under regulation 10 (as updated, where applicable, by an enforcing authority under regulation 11, 12(3) or 13(3));

“Scottish Water” means the body corporate established by section 20(1) of the Water Industry (Scotland) Act 2002;

“source” means source of water;

“supply of water” includes a supply of water—

- (a) from a private water supply system;
- (b) from a tanker; or
- (c) in bottles or containers;

“supply of water in pipes” means a supply of water through a private water supply system;

“supply zone” means a geographically defined area within which water comes from one or more sources and water quality may be considered as being approximately uniform;

“Table A” means the table in Part A of schedule 2;

“Table B” means the table in Part B of schedule 2;

“Table C” means the table in Part C of schedule 2;

“uncertainty of measurement” means a non-negative parameter characterizing the dispersion of the quantity values being attributed to a measurand, based on the information used;

“water” means water intended for human consumption, except where—

- (a) it is used in the meaning of “water intended for human consumption”;
- (b) forms part of an expression which is separately defined by these Regulations; or
- (c) the context otherwise requires;

“water environment” has the same meaning as in section 3(2) of the Water Environment and Water Services (Scotland) Act 2003⁽¹³⁾;

“water intended for human consumption” means—

- (a) all water, either in its original state or after treatment, intended for drinking, cooking, food preparation or other domestic purposes, regardless of its origin and whether it is supplied from a private water supply system, a tanker, or in bottles or containers; and
- (b) all water intended to be used in any food-production undertaking for the manufacture, processing, preservation or marketing of products or substances intended for human consumption, unless, in accordance with Regulation (EC) No 852/2004 of the European Parliament and of the Council on the hygiene of foodstuffs⁽¹⁴⁾, the competent authority⁽¹⁵⁾ is satisfied that the quality of water cannot affect the wholesomeness of the product or substance in its finished form;

“water quality standards” means requirements of regulation 14, as modified by any derogation granted under schedule 5 in respect of the water to which the derogation applies;

“water supplier” means a person who introduces water into, or uses, a private water supply system for the purposes of supplying, as part of a commercial or public activity, water to the premises of another person;

“water supply system” means all associated pipework, fittings, appliances (including for abstraction, storage and treatment) and other similar infrastructure used, or intended to be used, to supply water in pipes to one or more premises, including pipework, fittings, appliances installed between—

- (a) the point or points at which the water is abstracted from the water environment; and
- (b) the point or points at which the water emerges from taps (within each premises) that are normally used for human consumption of the water; and

“year” means calendar year.

(2) For the purposes of the definition of “domestic distribution system” in paragraph (1) (and without prejudice to other circumstances in which a water supplier may be responsible), a water supplier is responsible for the parts of a private water supply system which are—

- (a) vested in the water supplier;
- (b) managed or controlled by the water supplier; or
- (c) maintained by the water supplier.

Supply zones

4.—(1) The Drinking Water Quality Regulator for Scotland may define areas that are to be supply zones for the purposes of these Regulations.

(2) Where an area is defined as a supply zone under paragraph (1) or redefined under paragraph (3)

⁽¹³⁾ 2003 asp 3.

⁽¹⁴⁾ OJ L 139 30.4.2004, p.1 as last amended by Regulation (EC) No 219/2009 (OJ L 87, 31.3.2009, p.109).

⁽¹⁵⁾ The competent authority is Food Standards Scotland or, where Food Standards Scotland has delegated this function to a local authority, the relevant local authority. See *S.S.I. 2006/3*, relevantly amended by *S.S.I. 2015/100*.

- (a) the Drinking Water Quality Regulator for Scotland must, by notice to each relevant enforcing authority, identify—
 - (i) the area defined or redefined as a supply zone; and
 - (ii) each supply of water within the supply zone which comes from one or more sources and in relation to which water quality is considered to be approximately uniform; and
- (b) each relevant enforcing authority must treat the area as a supply zone.
- (3) The Drinking Water Quality Regulator for Scotland may redefine the area of a supply zone.
- (4) The Drinking Water Quality Regulator for Scotland may, by further notice to an enforcing authority, modify a notice given to the enforcing authority under paragraph (2).
- (5) In paragraph (2), “relevant enforcing authority” means, in relation to a supply zone defined under paragraph (1) or, as the case may be, redefined under paragraph (3), an enforcing authority for an area containing any part of (either or both)—
 - (a) the supply zone; or
 - (b) a supply of water which comes from one or more sources within the supply zone.