
WELSH STATUTORY INSTRUMENTS

2010 No. 66

The Private Water Supplies (Wales) Regulations 2010

PART 1

Water standards

Title, application and commencement

1. The title of these Regulations is the Private Water Supplies (Wales) Regulations 2010; they apply in relation to Wales and come into force on 4 February 2010.

Scope

2. These Regulations apply in relation to private supplies of water intended for human consumption; and for these purposes “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 distribution network, from a tanker, or in bottles or containers;
- (b) all water used in any food-production undertaking for the manufacture, processing, preservation or marketing of products or substances intended for human consumption.

Exemptions

3. These Regulations do not apply in relation to—

- (a) water to which the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2007(1) apply;
- (b) water that is a medicinal product within the meaning of the Medicines Act 1968(2); or
- (c) water used solely for washing a crop after it has been harvested and that does not affect the fitness for human consumption of the crop or of any food or drink derived from the crop.

Wholesomeness

4. Water supplied to any premises is to be regarded as wholesome if all the following conditions are met—

- (a) it does not contain any micro-organism, parasite or substance, alone or in conjunction with any other substance, at a concentration or value that would constitute a potential danger to human health;
- (b) it complies with the concentrations or values specified in Part 1 of Schedule 1; and
- (c) in the water:

(1) S.I. 2007/3165 (W.276) as amended by S.I. 2009/1897 (W.170).

(2) 1968 c. 67.

$$\frac{\text{nitrate (mg/l)}}{50} + \frac{\text{nitrite (mg/l)}}{3} \leq 1.$$

Disinfection

5.—(1) Where disinfection forms part of the preparation or distribution of water; the relevant person (as defined in section 80 of the Water Industry Act 1991(3)) must—

- (a) design, operate and maintain the disinfection process so as to keep any contamination from disinfection by-products as low as possible,
 - (b) carry out this process without compromising the performance of the disinfection process,
 - (c) ensure that the performance of the disinfection process is maintained,
 - (d) in order to verify the performance of the disinfection process, keep records of the maintenance undertaken to comply with the requirements of the disinfection process, and
 - (e) keep copies of those records available for inspection by the local authority, for a period of up to five years.
- (2) In this regulation “disinfection” means a process of water treatment to—
- (a) remove; or
 - (b) render harmless to human health,

every pathogenic micro-organism and pathogenic parasite that would otherwise be present in the water.

Requirement to carry out a risk assessment

6.—(1) A local authority must carry out a risk assessment within five years of the coming into force of these Regulations, and subsequently every five years (or earlier if deemed necessary or it considers that the existing risk assessment is inadequate) of each private supply that supplies water to any premises in its area (other than a supply to a single dwelling not used for any commercial activity).

(2) It must also carry out a risk assessment of a private supply to a single dwelling in its area not used for any commercial activity if requested to do so by the owner or occupier of that dwelling.

(3) The risk assessment must establish whether there is a significant risk of supplying water that would constitute a potential danger to human health.

PART 2

Monitoring

Monitoring

7. A local authority must monitor all private supplies in its area in accordance with this Part when carrying out its duties under section 77(1) of the Water Industry Act 1991(4).

(3) 1991 c. 56.

(4) 1991 c. 56.

Further distribution of supplies from water undertakers or licensed water suppliers

8. Where water is supplied by a water undertaker or licensed water supplier and is then further distributed by a person other than a water undertaker or licensed water supplier, any monitoring which the risk assessment shows to be necessary must be carried out.

Large supplies and supplies to commercial or public premises

9. In the case of a private supply (other than that specified in regulation 8) that—

- (a) supplies an average daily volume of water of 10m³ or more, or
- (b) supplies water to premises where the water is used for a commercial activity or to public premises,

the local authority must monitor in accordance with Schedule 2 and carry out any additional monitoring that the risk assessment shows to be necessary.

Other private supplies

10.—(1) In all cases, other than a private supply to a single dwelling not used for a commercial activity and those to which regulation 8 and 9 apply, the local authority must monitor for—

- (a) conductivity;
- (b) enterococci;
- (c) *Escherichia coli* (*E. coli*);
- (d) hydrogen ion concentration;
- (e) turbidity;
- (f) any parameter in Schedule 1 identified in the risk assessment as being at risk of not complying with the concentrations or values in that Schedule; and
- (g) anything else identified in the risk assessment as a potential danger to human health.

(2) It must monitor at least every five years and carry out any additional monitoring that the risk assessment shows to be necessary.

(3) In the case of a private supply to a single dwelling not used for a commercial activity a local authority may monitor the supply in accordance with this regulation, and must do so if requested to do so by the owner or occupier.

Sampling and analysis

11.—(1) When a local authority monitors a private supply it must take a sample—

- (a) if the water is supplied for domestic purposes, from a tap normally used to supply water for human consumption, and which, if there is more than one tap, is representative of the water supplied to the premises;
- (b) if the water is used in a food-production undertaking, at the point at which it is used in the undertaking;
- (c) if the water is supplied from a tanker, at the point at which it emerges from the tanker;
- (d) in any other case at a suitable point.

(2) It must then ensure that the sample is analysed.

(3) Schedule 3 makes further provision for sampling and analysis.

Maintenance of records

12. A local authority must make and keep records in respect of every private supply in its area in accordance with Schedule 4.

Notification of information

13. By 31 July 2010, and by 31 January each following year, every local authority must—
- (a) send the Chief Inspector of Drinking Water for Wales a copy of the records in Schedule 4; and
 - (b) upon request, send the Welsh Ministers a copy of those records.

PART 3**Action in the event of failure****Provision of information**

14. If the local authority considers that a private supply in its area is a potential danger to human health it must take appropriate steps to ensure that people likely to consume water from it—
- (a) are informed that the supply constitutes a potential danger to human health;
 - (b) where possible, are informed of the degree of the potential danger; and
 - (c) are given advice to allow them to minimise any such potential danger.

Investigation

15. A local authority must carry out an investigation to establish the cause if it suspects that the supply is unwholesome or that an indicator parameter does not comply with the concentrations or values in Part 2 of Schedule 1.

Procedure following investigation

- 16.—(1) Once a local authority has carried out an investigation and established the cause of the water being unwholesome, it must act in accordance with this regulation.
- (2) If the cause of the unwholesome water is in the pipework within a single dwelling, it must promptly inform the people supplied and offer them advice on measures necessary for the protection of human health.
- (3) Otherwise, if it cannot solve the problem informally the local authority—
- (a) may on application grant an authorisation in accordance with regulation 17(2) if the conditions in that regulation are fulfilled; and
 - (b) if it does not grant such an authorisation, must (or, in the case of a supply to a single dwelling, may) serve a notice, either in accordance with section 80 of the Water Industry Act 1991(5) or under regulation 18 if the conditions in that regulation are fulfilled.

Authorisations of different standards

17.—(1) Any person may apply to a local authority for the grant of an authorisation under this regulation.

(5) 1991 c. 56.

- (2) A local authority may grant an authorisation of different standards under this regulation if—
- (a) the only cause of the unwholesome water is that a parameter in Table B of Part 1 of Schedule 1 (chemical parameters) is not complied with;
 - (b) the local authority has consulted all water users who will be affected by the authorisation and the Health Protection Agency for the area and has taken their views into account;
 - (c) granting the authorisation does not cause a potential danger to human health;
 - (d) the supply of water cannot be maintained by any other reasonable means.
- (3) An authorisation must require the applicant to take action over a period of time to ensure that the necessary parameters are complied with, and must specify—
- (a) the person to whom the authorisation is granted;
 - (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, 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;
 - (h) the duration of the authorisation.
- (4) If a local authority grants an authorisation, and the person to whom it is granted takes action in accordance with the timetable specified in the authorisation, the local authority may not serve a notice under section 80 of the Water Industry Act 1991 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 may not exceed three years.
- (6) The local authority must ensure that people supplied 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) If the supply exceeds 1,000 m Δ a day as an average or serves more than 5,000 persons the local authority must send a copy of the authorisation to the Chief Inspector of Drinking Water for Wales and the Welsh Ministers within one month.
- (8) The local authority must keep the progress of the remedial action under review.
- (9) If necessary, it may grant a second authorisation for up to a further three years with the prior consent of the Welsh Ministers, but if it does so it must, as soon as is reasonably practicable, send a copy of the authorisation together with the grounds for its decision to the Chief Inspector of Drinking Water for Wales and the Welsh Ministers.
- (10) It may revoke or amend the authorisation at any time, and in particular may revoke or amend it if the timetable for remedial action has not been adhered to.

PART 4

Notice procedure

Notices

18.—(1) If any private supply of water intended for human consumption constitutes a potential danger to human health, a local authority acting under these Regulations must serve a notice under this regulation on the relevant person (as defined in section 80 of the Water Industry Act 1991⁽⁶⁾) instead of a notice under that section.

(2) The notice must —

- (a) identify the private supply to which it relates;
- (b) state the grounds for serving the notice;
- (c) prohibit or restrict the use of that supply;
- (d) specify what other action is necessary to protect human health.

(3) The local authority must promptly inform consumers of the notice and provide any necessary advice.

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

(5) The local authority must revoke the notice as soon as there is no longer a potential danger to human health.

(6) It is an offence to breach a notice served under this regulation or fail to comply with it.

Appeals

19.—(1) Any person who is aggrieved by a notice served under regulation 18 may appeal to a magistrates' court within 28 days of service of the notice.

(2) The procedure on an appeal to a magistrates' court under paragraph (1) is by way of complaint, and the Magistrates' Courts Act 1980⁽⁷⁾ applies to the proceedings.

(3) A notice remains in force unless suspended by the court.

(4) On an appeal, the court may either cancel the notice or confirm it, with or without modification.

Penalties

20.—(1) A person failing to comply with a notice served under regulation 18 is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding three months or both, or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or both.

(2) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate; or
- (b) any person who was purporting to act in any such capacity,

that person is guilty of the offence as well as the body corporate.

⁽⁶⁾ 1991 c. 56.

⁽⁷⁾ 1980 c. 43; sections 51 and 52 have been substituted by the Courts Act 2003 (c. 39), section 47.

(3) For the purposes of paragraph (2) above, “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

PART 5

Miscellaneous

Fees

21. Schedule 5 makes provision for fees.

Revocation

22. The Private Water Supplies Regulations 1991⁽⁸⁾ are revoked in relation to Wales.

13 January 2010

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Housing, one of the Welsh Ministers