
STATUTORY RULES OF NORTHERN IRELAND

2017 No. 212

**The Water Supply (Water Quality)
Regulations (Northern Ireland) 2017**

PART 8

**INVESTIGATIONS, AUTHORISATION OF
DEPARTURES AND REMEDIAL ACTION**

Investigations: Schedule 1 parameters

21.—(1) Subject to paragraph (3), where a water undertaker has reason to believe that water supplied by it for regulation 5(1) purposes—

- (a) fails, or is likely to fail, to satisfy a requirement of regulation 5(3); or
- (b) is to be regarded as unwholesome by virtue of regulation 5(5); or
- (c) if regulation 5(7) were ignored, would be regarded as unwholesome by virtue of regulation 5(6),

the water undertaker must immediately take such steps as are necessary to identify the matters specified in paragraph (2).

(2) The matters referred to in paragraph (1) are—

- (a) the cause and extent of the failure or, as the case may be, the apprehended failure;
- (b) the Schedule 1 parameters in respect of which the prescribed concentration or value has not been, or is unlikely to be, achieved; and
- (c) in relation to each parameter so identified, whether the failure, or apprehended failure, to achieve the prescribed concentration or value is attributable—
 - (i) to the domestic distribution system;
 - (ii) to the maintenance of that system; or
 - (iii) to neither of those matters.

(3) Where a departure has been authorised under this Part—

- (a) paragraph (1) must apply only in respect of the Schedule 1 parameters (if any) that are not specified in the authorisation; and
- (b) if a water undertaker has reason to believe that water supplied by it for regulation 5(1) purposes fails, or is likely to fail, to satisfy the concentration or value required by the authorisation in relation to any Schedule 1 parameter, a water undertaker must immediately take such steps as are necessary to identify the matters specified in paragraph (4).

(4) The matters referred to in paragraph (3) are—

- (a) the cause and extent of the failure or, as the case may be, the apprehended failure;

- (b) the Schedule 1 parameters in respect of which the required concentration or value has not been, or is unlikely to be, achieved; and
 - (c) in relation to each parameter so identified, whether the failure, or apprehended failure, to achieve that concentration or value is attributable—
 - (i) to the domestic distribution system;
 - (ii) to the maintenance of that system; or
 - (iii) to neither of those matters.
- (5) After the matters specified in paragraphs (2) or (4), as the case may be, have been identified, the water undertaker must immediately notify the Department—
- (a) of those matters;
 - (b) in relation to each parameter identified in accordance with paragraphs (2)(b) or (4)(b), whether it is the opinion of the water undertaker that a failure in respect of that parameter is likely to recur; and
 - (c) of the action (if any) taken by the water undertaker in relation to a failure which is attributable to the domestic distribution system or the maintenance of that system.
- (6) Where a water undertaker has identified a failure attributable to the domestic distribution system or to the maintenance of that system, it must, at the same time as notification is given under paragraph (5)—
- (a) by notice in writing to those of its consumers—
 - (i) to whom it supplies water for regulation 5(1) purposes; and
 - (ii) who are likely to be affected by the failure,inform them of the nature of the failure and provide details of the steps (if any) that, in the opinion of the water undertaker, it is necessary or desirable for those consumers to take in the interests of their health; and
 - (b) send a copy of that notice to the Department and to each appropriate district council.
- (7) Where such a failure as is mentioned in paragraph (1) relates to the copper or lead parameter, the water undertaker must, as soon as reasonably practicable after the occurrence, modify or replace such of its pipes and their associated fittings as it knows or has reason to believe have the potential for contributing to copper or lead in the water supplied to the premises, so as to eliminate that potential (whether or not the presence of copper or lead in those pipes contributed to the failure).

Investigations: indicator parameters

- 22.—(1)** Where the water undertaker has reason to believe that water supplied by it for regulation 5(1) purposes does not meet the specifications for indicator parameters set out in Schedule 2, it must immediately take such steps as are necessary to identify—
- (a) the reason why the specifications are not met;
 - (b) the indicator parameters in respect of which the specifications are not met; and
 - (c) if the specification for the coliform bacteria or colony count parameter (items 4 and 5 in Schedule 2) is not met, whether the inability to meet that specification is attributable—
 - (i) to the domestic distribution system;
 - (ii) to the maintenance of that system; or
 - (iii) to neither of those matters.
- (2) Immediately after the matters specified in paragraph (1) have been identified, the water undertaker must notify the Department—

- (a) of those matters; and
- (b) in relation to each parameter identified in accordance with paragraph (1)(b), whether it is the opinion of the water undertaker that a recurrence of the inability to meet the specification in respect of that parameter is likely.

(3) Where, in a case to which paragraph (1)(c) applies, the inability to meet the specification has been identified as attributable to the domestic distribution system or to the maintenance of that system, the water undertaker must, at the same time as notification is given under paragraph (2)—

- (a) by notice in writing to those of its consumers—
 - (i) to whom it supplies water for regulation 5(1) purposes; and
 - (ii) who are likely to be affected,

inform them of the nature of the failure and provide details of the steps (if any) that, in the opinion of the water undertaker, it is necessary or desirable for those consumers to take in the interests of their health; and

- (b) send a copy of that notice to the Department and to each appropriate district council.

Action by the Department

23.—(1) Where—

- (a) a notification given in accordance with paragraph (5) of regulation 21 in the circumstances mentioned in paragraph (1) of that regulation (including that paragraph as read with paragraph (3)(a)) discloses—
 - (i) a failure in respect of a parameter specified in Table B in Schedule 1; and
 - (ii) that the failure is not attributable to the domestic distribution system or the maintenance of that system; and
- (b) it appears to the Department that the failure is not trivial and is likely to recur,

the Department may, by notice in writing to the water undertaker, require the undertaker to seek a departure in accordance with regulation 24.

(2) Where—

- (a) a notification given in accordance with paragraph (5) of regulation 21 in the circumstances mentioned in paragraph (3)(b) of that regulation discloses —
 - (i) a failure in relation to any parameter specified in Table B in Schedule 1; and
 - (ii) that the failure is not attributable to the domestic distribution system or the maintenance of that system; and
- (b) it appears to the Department that the failure in respect of that parameter is not trivial and is likely to recur,

the Department must consider whether the terms of the authorisation under regulation 24 should be modified.

(3) Where—

- (a) a notification given in accordance with regulation 22(2) discloses an inability to meet the specification applicable to an indicator parameter; and
- (b) the Department considers that the inability poses a potential risk to human health,

the Department must, by notice in writing, require a water undertaker to take such steps as may be determined by the Department and specified in the notice.

(4) Should notice be given under paragraph (3) it shall be the duty of the water undertaker to take the steps specified in the notice.

Authorisation of temporary supply of water that is not wholesome

24.—(1) Subject to paragraph (2), the Department may, upon the written application of the water undertaker, authorise in accordance with regulation 25 a departure from the provisions of Part 3 in so far as they relate to—

- (a) a parameter specified in Table B in Schedule 1; and
- (b) the supply of water by the water undertaker in any of its water supply zones.

(2) The Department must not authorise a departure under paragraph (1) unless it is satisfied that—

- (a) the authorisation is necessary to maintain in that zone a supply of water for regulation 5(1) purposes;
- (b) a supply of water for those purposes cannot be maintained in that zone by any other reasonable means; and
- (c) the supply of water in accordance with the authorisation does not constitute a potential risk to human health.

(3) The water undertaker must provide with its application—

- (a) a statement—
 - (i) of the grounds on which the authorisation is sought;
 - (ii) of the water supply zone in respect of which the authorisation is sought;
 - (iii) of the parameters in respect of which the prescribed concentration or value cannot be met;
 - (iv) in respect of each parameter to which paragraph (iii) applies, of the results of the analysis of the samples taken in the water supply zone in question during the 12 months immediately preceding the first day on which the prescribed concentration or value could not be met;
 - (v) in respect of each parameter to which paragraph (iii) applies, of the results of the analysis of the samples (if any) taken in the water supply zone in question between the first day on which the prescribed concentration or value could not be met and the date of the application;
 - (vi) of the average daily quantity of water supplied to that zone or, if that quantity cannot readily be ascertained, of the average daily quantity of water supplied from the treatment works that supplies water to that zone;
 - (vii) of the estimated population of that zone;
 - (viii) as to whether, if a departure were authorised in the terms sought, any relevant food-production undertaking would be affected;
 - (ix) of the period for which the authorisation is sought; and
 - (x) of the reasons why the supply cannot be maintained by other reasonable means;
- (b) a scheme for monitoring the quality of water supplied in the zone during the period for which the authorisation is sought; and
- (c) a summary of the steps that it proposes to take in order to ensure that the supply fully satisfies the requirements of Part 3, including—
 - (i) a timetable for the work;
 - (ii) an estimate of the cost of the work; and
 - (iii) provisions for reviewing the progress of the work and for reporting the result of the review to the Department.

(4) At the same time as it makes an application for an authorisation under paragraph (1), the water undertaker must serve on—

- (a) every appropriate district council; and
- (b) every appropriate health and social care trust,

a copy of the application and of the statement, scheme and summary referred to in paragraph (3).

(5) A body on whom documents have been served in accordance with paragraph (4) may make representations to the Department in connection with the application; and any such representations must be made not later than the end of the period of 30 days beginning with the date on which the application for the authorisation is made.

Authorisations: terms and conditions

25.—(1) Subject to paragraph (2), a departure may be authorised under regulation 24 for such period as is in the Department’s opinion reasonably required for securing a supply of water for regulation 5(1) purposes that fully satisfies the requirements of Part 3 (“the departure period”).

(2) No departure period may exceed three years.

(3) Subject to paragraph (4), an authorisation under regulation 24—

- (a) must specify—
 - (i) the grounds on which it is granted;
 - (ii) every water supply zone in respect of which it is granted;
 - (iii) the extent to which a departure from the prescribed concentration or value of any parameter is authorised;
 - (iv) in respect of each parameter to which paragraph (iii) applies, the results of the analysis of the samples taken in each water supply zone in question during the 12 months immediately preceding the first day on which the prescribed concentration or value could not be met;
 - (v) in respect of each parameter to which paragraph (iii) applies, the results of the analysis of the samples (if any) taken in each water supply zone in question between the first day on which the prescribed concentration or value could not be met and the date of the application;
 - (vi) the average daily quantity of water supplied from each of those zones or, if that quantity cannot readily be ascertained, the average daily quantity of water supplied from the treatment works that supplies water to that zone;
 - (vii) the estimated population of each of those zones;
 - (viii) whether or not any relevant food-production undertaking would be affected; and
 - (ix) the departure period; and
- (b) must require the implementation of a scheme for monitoring the quality of water supplied in each of those zones during the departure period (which may be, but need not be, the scheme submitted in accordance with regulation 24(3)(b)); and
- (c) must require the carrying out of the steps which, in its opinion, are reasonably required in order to secure that the supply fully satisfies the requirements of Part 3 (whether or not the steps are those proposed in the summary submitted in accordance with regulation 24(3)(c)); and
- (d) must specify, in relation to those steps—
 - (i) the timetable for the work;
 - (ii) an estimate of the cost of the work; and

- (iii) provisions for reviewing the progress of the work and for reporting to it the result of the review;
 - (e) must require the taking of such steps as may be specified to give to the population within the water supply zones to which the authorisation applies and, in particular, to those groups of that population for which the supply of water in accordance with the authorisation could present a special risk, advice as to the measures (if any) that it would be advisable in the interests of their health for persons within that population or those groups to take for the whole or any part of the departure period.
- (4) Where the Department is of the opinion—
- (a) that the extent of the contravention of requirements of Part 3 as respects any parameter is trivial; and
 - (b) that the prescribed concentration or value as respects that parameter is likely to be achieved within the period of 30 days beginning with the day on which the prescribed concentration or value in respect of that parameter was contravened,

the particulars to be specified in the authorisation must be those required by paragraph (3)(a) (iii) and (ix), and sub-paragraphs (b) to (d) of that paragraph shall not apply.

(5) Where it appears to the Department that a supply of water that fully satisfies the requirements of Part 3 cannot be restored by the end of the departure period, it may authorise a further departure.

(6) Paragraphs (1) to (5) shall apply to a further departure as they apply to a departure authorised under regulation 24.

(7) Where it appears to the Department that a supply of water that fully satisfies the requirements of Part 3 cannot be restored by the end of the departure period relevant to an authorisation under paragraph (5), it may, in accordance with Article 9(2) of the Directive, authorise a third departure.

(8) Paragraph (3) shall apply to a departure authorised under paragraph (7) as it applies to a departure authorised under regulation 24 but with the substitution for the words “Subject to paragraph (4)” of the words “Subject to any direction of the Commission”.

Authorisations: other limitations

26. An authorisation under regulation 24 or regulation 25 may be limited to water supplied—
- (a) from particular sources or classes of source; or
 - (b) to particular water supply zones or to zones of particular descriptions.

Publicity for authorisations

27.—(1) As soon as reasonably practicable after a departure has been authorised, the water undertaker must—

- (a) publish in a newspaper circulating in the area in which the supply zone to which the authorisation relates is situated—
 - (i) except in a case to which regulation 25(5) applies, a notice containing a statement of the matters specified in paragraph (3)(a)(ii), (iii), (viii) and (ix) of that regulation;
 - (ii) in a case to which 25(5) applies, and if the Department so requires, a notice containing a statement of the matters specified in paragraph (3)(a)(ii), (iii) and (ix) of that regulation;
- (b) give such other public notice of the authorisation and of its terms and conditions as the Department may, by notice in writing to the water undertaker, reasonably require.

(2) As soon as reasonably practicable after a departure has been authorised, a water undertaker must—

- (a) separately publish, by making accessible, free of charge, on its website via a hyperlink maintained on its respective homepage for at least 14 days—
 - (i) except in a case to which regulation 25(5) applies, a notice containing a statement of the matters specified in paragraph (3)(a)(ii), (iii), (viii), and (ix) of that regulation; and
 - (ii) in a case to which 25(5) applies, publish a notice containing a statement of the matters specified in paragraph (3)(a)(ii), (iii), and (ix) of that regulation; and
- (b) give such other public notice of the authorisation and of its terms and conditions as the Department may, by notice served on a water undertaker, reasonably require.

Revocation and modification of authorisations

28.—(1) Subject to paragraphs (2) and (3), the Department may at any time modify or revoke an authorisation under regulation 24.

(2) The Department must not revoke or modify an authorisation under regulation 24 without giving at least six months' notice in writing of its intention to do so to—

- (a) the water undertaker;
- (b) the appropriate district council; and
- (c) the appropriate health and social care trust,

but it may revoke or modify an authorisation without notice if it appears to it that immediate revocation or modification is required in the interests of public health.

(3) A water undertaker on whose application a departure has been authorised under this Part must notify the Department as soon as the circumstances which gave rise to the application cease to exist; and the Department must thereupon revoke the authorisation without the need for prior notice.