

Draft Regulations laid before the Scottish Parliament under paragraph 2(2) of Schedule 2 to the European Communities Act 1972, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2006 No.

WATER SUPPLY

**The Private Water Supplies (Notices)
(Scotland) Regulations 2006**

Made - - - - 2006
Coming into force - - 3rd July 2006

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(1), and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has, in accordance with paragraph 2(2) of Schedule 2 to that Act, been laid before and approved by resolution of the Scottish Parliament:

Citation and commencement

1. These Regulations may be cited as the Private Water Supplies (Notices) (Scotland) Regulations 2006 and shall come into force on 3rd July 2006.

Amendment of the Water (Scotland) Act 1980 in relation to private water supplies

2. After section 76H (Effect, confirmation and variation of notice under section 76G) of the Water (Scotland) Act 1980(2), insert—

“ Application of sections 76G and 76H to certain private supplies

76HA.—(1) In their application to a private supply which is a private water supply to which the Private Water Supplies (Scotland) Regulations 2006 (S.S.I. 2006/) apply, sections 76G and 76H above have effect subject to the modifications in subsections (2) and (3).

(2) In section 76G—

(a) in subsection (1)—

(1) 1972 c. 68. Section 2(2) was amended by the Scotland Act 1998 (c. 46), Schedule 8, paragraph 15(3). The functions conferred on the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
(2) 1980 c. 45. Sections 76G and 76H were inserted by the Water Act 1989 (c. 15), Schedule 22, paragraph 1.

- (i) for “domestic or food production purposes” substitute “human consumption purposes”; and
- (ii) for “may” substitute “shall, in the case of a private supply which is a Type A supply or may, in the case of a private supply which is a Type B supply,”;
- (b) in subsection (2)(d), for “section 76H(2) and (3)” substitute “section 76H(2), (3) and (11)”;
- (c) in subsection (4)–
 - (i) for “The power of a local authority to” substitute “A local authority may”;
 - (ii) omit “shall be exerciseable”;
 - (iii) in paragraph (b), for “powers” substitute “functions”;
- (d) in subsection (5), for “powers conferred by” substitute “functions under”; and
- (e) for subsection (7), substitute–

“(7) For the purposes of this section and section 76H below the relevant person, in relation to a private supply of water to any premises in the area of a local authority, is the person determined by that authority to be the “relevant person” in accordance with regulation 4 of the Private Water Supplies (Scotland) Regulations 2006 (S.S.I. 2006/).”;
- (f) after subsection (7) insert–

“(8) In this section–

“human consumption purposes”, “Type A supply” and “Type B supply” shall have the same meanings as in the Private Water Supplies (Scotland) Regulations 2006; and

“private supply” and “private supply of water” mean a private water supply to which those Regulations apply.”.
- (3) In section 76H, after subsection (10), insert–

“(11) Any relevant person on whom a notice is served under section 76G above, who fails without reasonable excuse to take any step as specified in the notice within the period so specified shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.

St Andrew’s House,
Edinburgh
2006

Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under section 2(2) of the European Communities Act 1972 (c. 68), modify sections 76G and 76H of the Water (Scotland) Act 1980 (c. 45) (“the 1980 Act”) in their application to private water supplies to which the Private Water Supplies (Scotland) Regulations 2006 (“the 2006 Regulations”) apply.

The 2006 Regulations introduce a new scheme for the regulation of private water supplies in Scotland. Where supplies do not meet the requisite water quality standards set out in those Regulations, local authorities can serve a notice under sections 76G and 76H of the 1980 Act requiring those responsible for those supplies to take steps to remedy the failure.

New section 76HA(2), which is inserted by regulation 2 of these Regulations, modifies section 76G of the 1980 Act to place a duty on local authorities to serve notices in the case of Type A supplies (as defined in the 2006 Regulations). Type A supplies are those which must satisfy the water quality standards set out in Council Directive 98/83/EC on the quality of water intended for human consumption (O.J. No. L 330, 5.12.98, p.32). In the case of Type B supplies, to which the Directive does not apply, local authorities retain their powers to serve notices.

New section 76HA(3) modifies section 76H of the 1980 Act to make it an offence to fail to comply with any notice served under section 76G of that Act.