
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 209

The Private Water Supplies (Scotland) Regulations 2006

PART I
GENERAL

Citation and commencement

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

Interpretation

2.—(1) In these Regulations—

“the 1980 Act” means the Water (Scotland) Act 1980;

“the 1992 Regulations” means the Private Water Supplies (Scotland) Regulations 1992(1);

“the 2002 Act” means the Water Industry (Scotland) Act 2002(2);

“appropriate local authority” in relation to an authorisation of a temporary departure under Part V or an application for any such authorisation, means the local authority whose area contains the source of the private water supply to which the authorisation relates or, in the case of such an application, would apply if a departure were authorised in the terms sought;

“consumer” means a person to whom a private water supply is provided for human consumption purposes;

“disinfection” means a process which removes or renders inactive pathogenic micro-organisms so as to satisfy the requirements of Part IV in respect of micro-organisms (other than parameters), parasites and the parameters listed in Schedule 1 to these Regulations; and “disinfected” shall be construed accordingly;

“distribution network” means the system (including pipes, fittings and tanks) used to convey a private water supply from its source or point of collection to its point of connection with a domestic distribution system;

“domestic distribution system” means the pipework, fittings and appliances which are installed between the taps that are normally used for human consumption purposes and the distribution network, which is the responsibility of a responsible person;

“health board” means a Health Board constituted by order under section 2(1)(a) of the National Health Service (Scotland) Act 1978(3);

“human consumption purposes” in relation to a private water supply, means a supply—

(1) S.I.1992/575, as amended by S.I. 1998/1856. Regulation 23(b) was revoked by the Water Supply (Water Quality) (Scotland) Regulations 2001 (S.S.I. 2001/207, regulation 39(1)(c)).
(2) 2002 asp3, as amended by the Water Services etc. (Scotland) Act 2005 (asp 3).
(3) 1978 c. 29.

(a) for such domestic purposes as consist in or include cooking, drinking, food preparation or washing (including the maintenance of personal hygiene); or

(b) for any of these domestic purposes to premises in which food is produced;

“indicator parameter” means a parameter listed in Table C of Schedule 1;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(4); and “area”, in relation to a local authority, means the local government area (within the meaning of that Act) for which the council is constituted;

“monitoring local authority” means the local authority in whose area any premises served by a private water supply are located;

“parameter” means a property, element, organism or substance listed in the second column of the Tables in Schedule 1 as read, where appropriate, with the notes to that Schedule and those Tables;

“pesticides and related products” means—

(a) any organic insecticide;

(b) any organic herbicide;

(c) any organic fungicide;

(d) any organic nematocide;

(e) any organic acaricide;

(f) any organic algicide;

(g) any organic rodenticide;

(h) any organic slimicide; and

(i) any product related to any of (a) to (h) (including any growth regulator),

and includes their relevant metabolites, degradation and reaction products;

“prescribed concentration or value”, in relation to any parameter, means the maximum or minimum concentration or value specified in relation to that parameter in the Tables in Schedule 1 as measured by reference to the unit of measurement so specified, and as read, where appropriate, with the notes to those Tables;

“private water supply” means a supply of water (including an abstraction of water from a source situated on the premises in which it is used or consumed) other than a supply provided by Scottish Water in pursuance of its core functions (within the meaning of section 70(2) of the 2002 Act);

“relevant person” has the meaning assigned by regulation 4;

“responsible person”, in relation to a domestic distribution system, means the person who owns or is otherwise responsible for that system;

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

“specification”, in relation to a parameter, means the concentration, value or state, shown as applicable to that parameter in the Tables in Schedule 1 as measured by reference to the unit of measurement so specified;

“state” in relation to an indicator parameter, means the state specified in relation to that parameter in Table C of Schedule 1 as measured by reference to the unit of measurement so specified;

“Type A supply” means a private water supply for human consumption purposes which—

- (a) on average, provides 10 or more cubic metres of water per day or serves 50 or more persons, or
- (b) regardless of the volume of water provided or the number of persons served, is supplied or used as part of a commercial or public activity,

and references in this definition

- (i) to the average volume of water provided by such a supply, are references to such volume (calculated as a daily average) as may be reasonably estimated to have been distributed or, if not distributed, used or consumed from the supply during the year prior to the year in which these Regulations come into force; and that estimate may be on the assumption that five persons use one cubic metre of water per day; and
- (ii) to the average number of persons served by such a supply, are references to such number of persons as may be reasonably estimated to be the maximum number served by the supply on any one day during the year prior to the year in which these Regulations come into force;

“Type B supply” means a private water supply for human consumption purposes, other than a Type A supply; and

“year” means a calendar year.

(2) Other expressions used both in these Regulations and in Council Directive [98/83/EC](#) of 3 November 1998 on the quality of water intended for human consumption⁽⁵⁾ have the same meaning in these Regulations as they have in that Directive.

(3) Any reference in these Regulations to

- (a) a level, followed by a number, is a reference to a level of Type A supply determined in accordance with Part III;
- (b) a numbered regulation shall be treated as the regulation bearing that number in these Regulations;
- (c) a numbered paragraph shall be treated as the paragraph bearing that number in the regulation in which it appears; and
- (d) a Schedule shall be treated as a reference to a Schedule to these Regulations.

(4) A reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000⁽⁶⁾ which has been recorded in written form and is capable of being reproduced in that form.

Application of Regulations

3.—(1) These Regulations, apart from regulations 34(2) and 35, do not apply to a private water supply which is used—

- (a) solely for washing a crop after it has been harvested; or
- (b) during the distillation of spirits—
 - (i) solely in the mashing process;
 - (ii) solely for washing plant; or
 - (iii) for both the purposes described in sub-paragraphs (i) and (ii) above but for no other purpose,

and which does not affect, either directly or indirectly, the fitness for human consumption of any food or drink or, as the case may be, spirits in their finished form.

⁽⁵⁾ O.J. No. L 330, 5.12.98, p.32.

⁽⁶⁾ 2000 c. 7.

(2) These Regulations, apart from regulations 34(2) and 35, do not apply to a private water supply which is—

- (a) a natural mineral water within the meaning of the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations 1999(7); and
- (b) a medicinal product within the meaning of the Medicines Act 1968(8) or a product in respect of which any provision of that Act has effect as if it were such a medicinal product.

PART II

RELEVANT PERSONS

Determination and notification of relevant person

4.—(1) A local authority shall, in relation to each private water supply to any premises within its area, determine, for their respective interests, those persons who—

- (a) provide the supply;
- (b) occupy the land from, or on which, the supply is obtained or located; or
- (c) exercise powers of management or control in relation to the supply,

and a person so determined shall, in these Regulations, be referred to as a “relevant person”.

(2) As soon as reasonably practicable after making a determination under paragraph (1), the local authority shall notify each relevant person in writing of its determination and the reasons for it.

Appeal against determination of relevant person

5.—(1) A person aggrieved by a decision of a local authority to determine that person to be a relevant person may appeal to the sheriff against that determination, and the decision of the sheriff in that matter shall be final.

(2) An appeal to the sheriff under paragraph (1) shall be by way of summary application.

(3) The period within which an appeal under paragraph (1) may be brought shall be 21 days from the date on which notification of the local authority’s determination was served on the person desiring to appeal.

(4) Where a person has been determined to be a relevant person under regulation 4(1), that determination shall not have effect until the period within which an appeal may be brought has expired or until an appeal which has been brought has been disposed of or is withdrawn.

PART III

CLASSIFICATION OF PRIVATE WATER SUPPLIES

Classification and level of supplies

6.—(1) A monitoring local authority shall classify all private water supplies used or to be used in its area as a Type A or a Type B supply.

(7) S.I. 1999/1540 as amended by S.I. 2000/62, 2003/139 and 2004/132.

(8) 1968 c. 67, as relevantly amended by S.I. 1994/3119 and S.I. 2005/50, regulation 25. “Medicinal product” and related expressions are defined in section 130 of that Act.

(2) For the purposes of classifying a private water supply under paragraph (1), a monitoring local authority shall estimate the average volume of water provided by that supply in relation to the current year rather than by reference to the year prior to it.

(3) Where a private water supply is classified a Type A supply, its level shall be determined in accordance with the following Table, by reference to the maximum average daily volume of water provided during any period of maximum supply for human consumption purposes by such supplies.

TABLE

| <i>Level</i> | <i>Maximum average daily volume of water supplied for human consumption purposes in m³/day</i> |
|--------------|-----------------------------------------------------------------------------------------------------------|
| 1 | ≤ 100 |
| 2 | > 100 – ≤ 1,000 |
| 3 | > 1,000 |

(4) A monitoring local authority shall at least once in each year, review and update the classification of, and the level of, private water supplies serving premises in its area.

PART IV WHOLESOMENESS

Wholesomeness: Private Water Supplies

7.—(1) Water supplied to any premises from a private water supply for human consumption purposes shall be regarded as wholesome for the purposes of Part VIA of the 1980 Act, as it applies to the supply of water for those purposes, if—

- (a) in respect of a Type A supply, the requirements of paragraph (2) are satisfied; or
- (b) in respect of a Type B supply, the requirements of paragraph (3) are satisfied.

(2) The requirements of this paragraph are—

- (a) that the water does not contain—
 - (i) any micro-organism (other than a parameter) or parasite; or
 - (ii) any substance (other than a parameter),

at a concentration or value which would constitute a potential danger to human health;

- (b) that the water does not contain any substance (whether or not a parameter) at a concentration or value which, in conjunction with any other substance it contains (whether or not a parameter), would constitute a potential danger to human health;
- (c) that the water does not contain concentrations or values of the parameters listed in the second column of Tables A and B in Schedule 1 in excess of or, as the case may be, less than the prescribed concentration or values; and
- (d) that the water satisfies the formula $[\text{nitrate}]/50 + [\text{nitrite}]/3 \leq 1$, where the square brackets signify the concentrations in mg/l for nitrate (NO₃) and nitrite (NO₂).

(3) The requirements of this paragraph are—

- (a) that the water does not contain—

- (i) any micro-organism (other than a parameter) or parasite; or
 - (ii) any substance (other than a parameter),
- at a concentration or value which would constitute a potential danger to human health;
- (b) that the water does not contain any substance (whether or not a parameter) at a concentration or value which, in conjunction with any other substance it contains (whether or not a parameter), would constitute a potential danger to human health; and
 - (c) that the water does not contain concentrations or values of the parameters listed in the second column of Table D in Schedule 1 in excess of or, as the case may be, less than the prescribed concentration or values.
- (4) The point at which the requirements of paragraph (2) are to be complied with is—
- (a) in the case of water supplied from a tanker or an intermittent short term supply, the point at which the water emerges from the tanker or the supply;
 - (b) in the case of water supplied for use in a food production undertaking, the point where the water is used in that undertaking;
 - (c) in the case of water supplied from a distribution network, at the point, within premises or an establishment, at which it emerges from the tap or taps that are normally used for human consumption purposes; and
 - (d) in any other case, the point which, in the reasonable opinion of the monitoring local authority, is representative of the quality of water consumed or available for consumption throughout the year and which would otherwise be available at any of the points of compliance referred to at sub-paragraphs (a) to (c).
- (5) The point at which the requirements of paragraph (3) are to be complied with are those specified in sub-paragraphs (a), (c) and (d) of paragraph (4).

PART V

TYPE A SUPPLIES: TEMPORARY DEPARTURE FROM REQUIREMENTS OF PART IV

Application for authorisation of temporary departure in respect of a Type A supply that is not wholesome

8.—(1) Where a relevant person has reason to believe that a Type A supply fails, or is likely to fail, to satisfy a requirement of regulation 7(2), that person may make an application in writing to the appropriate local authority in respect of that supply, in so far as it relates to a parameter specified in Table B in Schedule 1, for the authorisation of a temporary departure from the provisions of Part IV on the application form approved by that authority for that purpose.

- (2) An application under paragraph (1) shall include—
- (a) a statement—
 - (i) of the grounds on which the authorisation is sought;
 - (ii) about the location of the supply in respect of which the authorisation is sought, including the source of the supply, and the addresses of any premises served by that supply;
 - (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 (if any) taken in relation to the supply 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 relation to the supply in question between the first day on which the prescribed concentration or value could not be met and the date of the application;
 - (vi) estimating the average daily volume of water provided by the supply in so far as that can readily be ascertained and the average number of persons served by the supply;
 - (vii) as to whether, if a departure were authorised in the terms sought, any food production undertaking would be affected;
 - (viii) of the period for which the authorisation is sought; and
 - (ix) of the reasons why the supply cannot be maintained by other reasonable means;
- (b) a scheme for monitoring the quality of water provided by that supply during the period for which the authorisation is sought; and
- (c) a summary of the steps that the relevant person proposes to take in order to secure that the supply fully satisfies the requirements of Part IV by the end of the period specified in paragraph 2(a)(viii), 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 appropriate local authority; and
- (d) the names and addresses of the persons to be notified for the purposes of paragraph (4).
- (3) The applicant shall provide to the appropriate local authority such additional information as may be required by that authority to allow proper consideration of the application.
- (4) At the same time as a relevant person makes an application under paragraph (1), that person shall notify—
- (a) any other relevant person in relation to the supply likely to be affected by the departure;
 - (b) every consumer served by that supply likely to be affected by the departure;
 - (c) every appropriate local authority in relation to the supply;
 - (d) every monitoring local authority in relation to the supply; and
 - (e) every health board in whose area the supply is located,
- with a copy of the application, and the statement, scheme and summary referred to in paragraph (2), and shall provide details of the notification to the appropriate local authority.
- (5) A body or person who has been notified in accordance with paragraph (4) may make representations to the appropriate local authority in connection with the application; and any such representations shall be made not later than the end of the period of 28 days beginning with the date on which the application for the authorisation was made.
- (6) An appropriate local authority shall, on the request of the relevant person, provide such advice or assistance as is reasonably required to enable that person to—
- (a) complete an application for the purposes of paragraph (1); and
 - (b) comply with the requirements of paragraph (4).

Authorisation of temporary departure: terms and conditions

- 9.—(1) An appropriate local authority shall only determine an application for an authorisation—
- (a) after the expiry of the period for making representations specified under regulation 8(5);
 - (b) where it receives a representation within that period, and that representation is not withdrawn, after having considered that representation; and
 - (c) where it is satisfied that the relevant person has complied with the notification requirements of regulation 8(4).
- (2) An appropriate local authority shall not grant an application for an authorisation made under regulation 8 unless it is satisfied—
- (a) that the authorisation is necessary to maintain a supply of water for human consumption purposes;
 - (b) that a supply of water for those purposes cannot be maintained by any other reasonable means; and
 - (c) that the supply of water in accordance with the authorisation does not constitute a potential danger to human health.
- (3) Subject to paragraphs (4) and (6), an appropriate local authority may authorise a departure for such period (“the departure period”) which, in the opinion of the appropriate local authority, is no longer than is reasonably required in order to secure a supply of water for human consumption purposes which satisfies the requirements of Part IV.
- (4) No departure period shall exceed three years.
- (5) Subject to paragraph (6), an authorisation under paragraph (3)—
- (a) shall specify—
 - (i) the grounds on which it is granted;
 - (ii) the location of the supply in respect of which it is granted, including the source of the supply, and the addresses of any premises served by that supply;
 - (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 (if any) taken in relation to the supply 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 relation to the supply in question between the first day on which the prescribed concentration or value could not be met and the date of application;
 - (vi) the average daily volume of water provided by the supply, in so far as that can readily be ascertained, and the estimated number of persons served by the supply;
 - (vii) whether or not any food production undertaking would be affected; and
 - (viii) the departure period; and
 - (b) shall require the implementation of a scheme for monitoring the quality of water supplied by that supply in the area in question during the departure period (which may be, but need not be, the scheme submitted in accordance with regulation 8(2)(b)); and
 - (c) shall—
 - (i) require the carrying out of the steps which, in the appropriate local authority’s opinion, are reasonably required in order to secure that the supply fully satisfies the

requirements of Part IV (whether or not the steps are those proposed in the summary submitted in accordance with regulation 8(2)(c)) by the end of the departure period; and

- (ii) specify, in relation to those steps—
 - (aa) the timetable for the work;
 - (bb) an estimate of the cost of the work; and
 - (cc) provisions for reviewing the progress of the work and for reporting to the appropriate local authority the result of the review;

- (d) shall require the taking of such steps as may be specified to give to the persons served by the supply to which the authorisation applies and, in particular, to those groups of such persons 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 those persons to take for the whole or any part of the departure period; and
- (e) such additional matters as the appropriate local authority considers necessary.

(6) Where the appropriate local authority is of the opinion—

- (a) that the extent of the contravention of the requirements of Part IV 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 shall be those required by paragraph (5)(a)(iii) and (viii), and sub-paragraphs (b) to (e) of that paragraph shall not apply.

(7) An appropriate local authority shall, as soon as reasonably practicable, notify the relevant person of the authorisation and its terms.

Authorisation of a second temporary departure

10.—(1) An appropriate local authority shall, before the expiry of the departure period specified in any authorisation granted under regulation 9, review whether the supply fails or is likely to fail to satisfy a requirement of regulation 7(2) by the end of that period.

(2) Where, following the review, it appears to the appropriate local authority that the supply fails or is likely to fail to satisfy a requirement of regulation 7(2) by the end of the departure period, it may, subject to the provisions of this regulation, authorise a second departure.

(3) Where an appropriate local authority proposes to authorise a second departure, it shall notify the relevant person and the Scottish Ministers of—

- (a) the results of the review undertaken in accordance with paragraph (1); and
- (b) the reasons for proposing to authorise a second departure.

(4) Paragraphs (2) to (5) and (7) of regulation 9 shall apply to the authorisation of a second departure as they apply to an authorisation under regulation 9.

Authorisation of a third temporary departure

11.—(1) An appropriate local authority shall, before the expiry of the departure period specified in any authorisation granted under regulation 10, review whether the supply fails or is likely to fail to satisfy a requirement of regulation 7(2) by the end of that departure period.

(2) Where, following the review, it appears to the appropriate local authority that the supply fails or is likely to fail to satisfy a requirement of regulation 7(2) by the end of the departure period, it

may, if it considers there are exceptional circumstances for doing so, and subject to the provisions of this regulation, request that the Scottish Ministers seek the authorisation of a third departure from the European Commission, in accordance with Article 9(2) of Council Directive 98/83/EC(9).

(3) Where paragraph (2) applies, the appropriate local authority shall notify the relevant person and the Scottish Ministers of—

- (a) the results of the review undertaken in accordance with paragraph (1); and
- (b) the exceptional circumstances which the authority considers justify its proposal to authorise a third departure.

(4) The Scottish Ministers shall, as soon as reasonably practicable, request an authorisation of a third departure from the European Commission if satisfied that there are grounds for a third departure.

(5) The appropriate local authority shall provide to the Scottish Ministers such information as may be required to enable them to be satisfied that there are grounds for a third departure.

(6) The Scottish Ministers shall, as soon as reasonably practicable, notify the European Commission's decision as regards the third departure to the appropriate local authority.

(7) Paragraphs (2) to (5) and (7) of regulation 9 shall apply to the authorisation of a third departure as they apply to an authorisation under regulation 9; and paragraph (5) of that regulation shall apply to a departure under this regulation, but with the substitution for the words in paragraph (5) "Subject to paragraph (6)" of the words "Subject to any decision of the European Commission".

Authorisation of temporary departure: other limitations

12. An authorisation under regulation 9, 10 or 11 (as the case may be), may be limited to water supplied—

- (a) from a particular source or class of source;
- (b) to or from a particular area of supply or to/from an area of a particular description; or
- (c) to particular premises or classes of premises.

Authorisation of temporary departure: publicity

13.—(1) As soon as reasonably practicable after a departure has been authorised and notified to the relevant person under regulation 9, 10 or 11 (as the case may be), that person shall—

- (a) notify the persons specified in regulation 8(4)(a) to (e), of the departure and of the matters specified in regulation 9(5)(a) to (e); and
- (b) give such other public notice of the authorisation, and of its terms and conditions, as the appropriate local authority may, by notice in writing to the relevant person, reasonably require.

(2) An appropriate local authority shall, upon the request of the relevant person, provide such advice and assistance as is reasonably required to enable that person to comply with the requirements of paragraph (1).

(3) Where a departure has been authorised under regulation 9 or 10 (as the case may be) in respect of a private water supply which is determined a level 3 supply under Part III, the appropriate local authority shall notify the Scottish Ministers in writing of the departure and its terms within 14 days of its authorisation.

(9) O.J. No. L 330, 5.12.98.

Refusal of temporary departure: notification and publicity

14.—(1) As soon as reasonably practicable after the refusal, either in whole or in part, of a departure under regulation 9, 10 or 11 (as the case may be) the appropriate local authority shall—

- (a) in the case of a refusal under regulation 9 or 10, provide reasons in writing for its decision to the relevant person; and
- (b) in the case of a refusal under regulation 11, notify the relevant person of the European Commission's decision.

(2) Where the appropriate local authority considers it necessary or desirable to do so, at the same time as it provides reasons or notifies the European Commission's decision under paragraph (1), it shall advise the relevant person of the steps or measures (if any) that it is advisable in the interests of their health for persons for which the supply of water, in respect of which the departure has been refused, could present a special risk, to take.

(3) As soon as reasonably practicable after the relevant person has received reasons or notification under paragraph (1), that person shall notify the persons specified in regulation 8(4)(a) to (e)—

- (a) of the refusal and the reasons therefor;
- (b) of any steps or measures advised under paragraph (2); and
- (c) of any other matters the appropriate local authority may, by notice in writing to the relevant person, reasonably require.

Revocation and modification of temporary departure

15.—(1) Subject to the provisions of this regulation, an appropriate local authority may at any time modify or revoke an authorisation under regulations 9, 10 or 11 (as the case may be).

(2) Subject to paragraph (3), the appropriate local authority shall not revoke or modify an authorisation without giving at least 28 days' notice in writing of its intention to do so, to—

- (a) the relevant person to which the authorisation relates and to any other relevant person in relation to that supply;
- (b) every consumer served by that supply;
- (c) every monitoring local authority in relation to that supply;
- (d) every health board in whose area the supply is located;
- (e) in the case of an authorisation granted in respect of a private water supply to which the provisions of regulations 10, 11 or 13(3) apply, the Scottish Ministers; and
- (f) such other persons as it considers appropriate.

(3) An appropriate local authority 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.

(4) A body or person on whom notice has been served in accordance with paragraph (2), may make representations to the appropriate local authority in connection with the proposed modification or revocation within the period specified in the notice, and the authority shall have regard to any such representations.

(5) The relevant person on whose application a departure has been authorised under this Part shall notify the appropriate local authority as soon as the circumstances which gave rise to the departure cease to exist.

(6) As soon as reasonably practicable after receiving notification under paragraph (5), the appropriate local authority shall revoke the authorisation without the need for prior notice, only on being satisfied that the circumstances which gave rise to the departure cease to exist.

PART VI

TYPE A SUPPLIES: RISK ASSESSMENTS, INVESTIGATIONS AND REMEDIAL ACTION

Type A Supplies: Risk Assessments

16.—(1) Subject to paragraph (2), a monitoring local authority shall carry out an assessment (“risk assessment”) of the potential health risks associated with all Type A supplies in their area taking into account the matters specified in Schedule 4, in order to establish whether such supplies satisfy the requirements of Part IV.

(2) A monitoring local authority shall carry out a risk assessment—

- (a) where the supply is a new supply and is to be used for the first time, or for the first time after being out of use for a period of 12 months or more, within 6 months of that supply being classified a Type A supply in accordance with Part III; or
- (b) where the monitoring local authority considers, whether as a result of monitoring that supply in accordance with Part VII of these Regulations or otherwise, that the supply is no longer wholesome, as soon as reasonably practicable.

(3) A monitoring local authority shall use the information obtained as a result of carrying out a risk assessment under paragraphs (1) and (2) to inform any remedial action as may be required under regulations 17 and 18.

(4) At the same time as a monitoring local authority reviews and updates the classification of a Type A supply in accordance with Part III, it shall review and update the terms of the risk assessment, carried out under this regulation.

Investigations: Schedule 1 microbiological and chemical parameters

17.—(1) Subject to paragraph (3), where a monitoring local authority considers a Type A supply fails, or is likely to fail, to satisfy a requirement of regulation 7(2) that authority shall immediately take such steps as are considered necessary to identify the following matters—

- (a) the cause and extent of the failure, or as the case may be, the apprehended failure;
- (b) the microbiological and chemical parameters listed in Tables A and B in Schedule 1 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 to—
 - (i) the domestic distribution system;
 - (ii) the maintenance of that system; or
 - (iii) neither of those matters.

(2) Where a departure has been authorised under Part V—

- (a) paragraph (1) shall apply only in respect of the microbiological and chemical parameters listed in Tables A and B in Schedule 1 (if any) that are not specified in the authorisation; and
- (b) a monitoring local authority which has reason to believe that the Type A supply fails, or is likely to fail, to satisfy the concentration or value required by the authorisation in relation to any of those, it shall immediately take such steps as are necessary to identify the matters specified in paragraph (1).

(3) As soon as reasonably practicable after the matters specified in paragraph (1) have been identified, the monitoring local authority shall notify the relevant person and the appropriate local authority—

- (a) of those matters; and
- (b) in relation to each parameter identified in accordance with paragraph (1)(b) whether the monitoring local authority considers a failure in respect of the parameter is likely to recur;
- (c) of the action (if any) taken by that authority in relation to a failure which is attributable to the domestic distribution system or the maintenance of that system; and
- (d) details of the steps (if any) that the authority considers it is necessary or desirable for consumers of the supply likely to be affected by the matters specified in paragraph (1) to take in the interests of their health.

(4) As soon as reasonably practicable after the relevant person receives notification given under paragraph (3), that person shall notify, in writing—

- (a) every consumer of that supply; and
- (b) where directed to do so by the monitoring local authority, every consumer the relevant person reasonably believes may have been or was likely to have been affected by the matters specified in paragraph (1), where the address or contact details of those consumers are known to that person or are readily ascertainable,

of the matters referred to in paragraph (3)(a) to (d).

(5) Where the monitoring local authority has identified a failure which is attributable to a domestic distribution system or the maintenance of that system, it shall, at the same time as notice is given under paragraph (3)—

- (a) notify in writing the responsible person in relation to that domestic distribution system, and having consulted with the health board in whose area the supply is located, inform that person of the nature of the failure and provide details of the steps (if any) that the authority considers it is necessary or desirable for that person and any other consumers of that supply to take in the interests of their health; and
- (b) send a copy of the notification under sub-paragraph (a) to the relevant person in relation to the private water supply.

(6) Where the monitoring local authority considers such a failure as is mentioned in paragraph (5) is likely to affect the supply of water to the public in premises in which water is so supplied, the authority shall at the same time as notice is given under paragraph (5)—

- (a) by notice in writing to the responsible person in respect of that domestic distribution system, inform that person of the nature of the failure and provide details of the steps (if any) that the authority considers it is necessary or desirable for that person and any other consumers of that supply to take in the interests of their health; and
- (b) send a copy of that notice to the relevant person in relation to the private water supply.

(7) As soon as reasonably practicable after a responsible person receives a notification given under paragraph (6)(a), that person shall—

- (a) where directed to do so by the monitoring local authority, serve a copy of that notice on every consumer the responsible person reasonably believes may have been or was likely to have been affected by the failure, where the address or contact details of those consumers are known to that person or are readily ascertainable;
- (b) prominently display a copy of the notice given under paragraph (6)(a) so that it might be conveniently read by any consumer that may attend at the premises; and
- (c) take all such other steps as the monitoring local authority may reasonably require to inform the public of the failure.

(8) Where such a failure as is mentioned in sub-paragraphs (a) to (c) of paragraph (1) relates to the copper or lead parameter, the monitoring local authority shall, as soon as reasonably practicable after the occurrence, advise the responsible person to modify or replace such of the 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 served by that supply, so as to eliminate that potential (whether or not the presence of copper or lead in those pipes contributed to the failure).

Investigations: Schedule 1 indicator parameters

18.—(1) Where a monitoring local authority considers a Type A supply does not meet the specifications for indicator parameters set out in Table C in Schedule 1, it shall immediately take such steps as are necessary to identify—

- (a) the indicator parameters in respect of which the specifications are not met;
- (b) the reason why the specifications are not met; and
- (c) if the specification for the coliform bacteria or colony count parameter (items 4 and 5 in Table C in Schedule 1) is not met, whether the inability to meet that specification is attributable to—
 - (i) the domestic distribution system;
 - (ii) the maintenance of that system; or
 - (iii) neither of those matters.

(2) As soon as reasonably practicable after the matters specified in paragraph (1) have been identified, the monitoring local authority shall notify the relevant person and the appropriate local authority—

- (a) of those matters;
- (b) in relation to each parameter identified in accordance with paragraph (1)(a), whether the authority considers a recurrence of the inability to meet the specification in respect of that parameter is likely; and
- (c) details of the steps (if any) that the authority considers it is necessary or desirable for consumers of the supply likely to be affected by the matters specified in paragraph (1) to take in the interests of their health.

(3) As soon as reasonably practicable after a relevant person receives notification given under paragraph (2), that person shall notify in writing every consumer of that supply of the matters referred to in paragraph (2)(a) to (c).

(4) 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 monitoring local authority shall, at the same time as notice is given under paragraph (2)—

- (a) notify in writing the responsible person in relation to that system of the nature of the failure and provide details of the steps (if any) that the authority considers it is necessary or desirable for that person and any consumers served by the supply to take in the interests of their health; and
- (b) send a copy of the notification to the relevant person in relation to the supply.

(5) As soon as reasonably practicable after a responsible person is notified under paragraph (4) (a), that person shall notify—

- (a) every consumer of that supply likely to be affected by the failure;
- (b) where directed to do so by the monitoring local authority, every consumer the responsible person reasonably believes may have been or was likely to have been affected by the failure

referred to in paragraph (4)(a), where the address or contact details of those consumers are known to that person or are readily ascertainable; and

(c) the relevant person in relation to the supply.

(6) Where the monitoring local authority considers such an inability as is mentioned in paragraph (4) is likely to affect the supply of water to the public in premises in which water is so supplied, the authority, at the same time as notification is given under paragraph (2), shall—

(a) by notice in writing to the responsible person in respect of that domestic distribution system, inform that person of the nature of the failure and provide details of the steps (if any) that the authority considers it is necessary or desirable for the responsible person and any other consumers of that supply to take in the interests of their health; and

(b) send a copy of the notice to the relevant person in relation to the supply.

(7) As soon as reasonably practicable after a responsible person receives notification given under paragraph (6)(a), that person shall—

(a) where directed to do so by the monitoring local authority, serve a copy of that notice on every consumer the responsible person reasonably believes may have been or was likely to have been affected by the failure, where the address or contact details of those consumers are known to that person or are readily ascertainable;

(b) prominently display a copy of the notice given under paragraph (6)(a) so that it might be conveniently read by any member of the public that might attend at the premises; and

(c) take all such other steps as are reasonably required to inform the public of the failure.

PART VII

TYPE A SUPPLIES: MONITORING

Check monitoring – interpretation

19. In this Part, “check monitoring” means monitoring a Type A supply for the purpose of obtaining representative information at regular intervals—

(a) as to the organoleptic and microbiological quality of water; and

(b) where relevant, as to the effectiveness of drinking water treatment (particularly of disinfection),

for the purpose of determining—

(i) as regards the parameters listed in Tables A and B in Schedule 1, whether water supplied for human consumption purposes satisfies the provisions of Part IV or, if a departure has been authorised under Part V in relation to that supply, those provisions as read with the terms of that departure; and

(ii) as regards indicator parameters listed in Table C in Schedule 1, whether water supplied for human consumption purposes meets the specifications for those parameters.

Audit monitoring - interpretation

20.—(1) In this Part, “audit monitoring” means monitoring a Type A supply for the purpose of obtaining representative information at regular intervals from which it may be established—

(a) as regards the parameters listed in Tables A and B in Schedule 1, whether water supplied for human consumption purposes satisfies the provisions of Part IV or, if a departure has

been authorised under Part V in relation to that supply, those provisions as read with the terms of that departure; and

- (b) as regards indicator parameters listed in Table C in Schedule 1, whether water supplied for human consumption purposes meets the specification for those parameters.

Monitoring duties and powers

21.—(1) Subject to regulation 26, for the purpose of determining whether a Type A supply satisfies the provisions of Part IV or, if a departure has been authorised under Part V in relation to a Type A supply, those provisions as read with the terms of that authorisation, a monitoring local authority shall take or cause to be taken, and analyse or cause to be analysed, from any Type A supply located within its area, not less than the number of samples of water specified in, or in accordance with, the provisions of this Part.

(2) Except in a case to which paragraph (3) applies, the parameters listed in Tables A to C in Schedule 1 shall be subject—

- (a) as regards a parameter listed in column (2) of Table A in Schedule 2, to check monitoring; and
- (b) as regards a parameter listed in column (2) of Table B in Schedule 2, to audit monitoring.

(3) Where the distribution of water—

- (a) is by tanker; or
- (b) is, or is likely to be, an intermittent short term supply,

samples of water from each tanker or intermittent short term supply from which water is distributed shall be taken 48 hours after the commencement of the distribution from that tanker or supply and every 48 hours thereafter until the distribution is discontinued.

Monitoring: general provision

22.—(1) Samples from a Type A supply shall be taken such that they are representative of the quality of water intended for human consumption purposes throughout the year and, in a case where a Type A supply serves a number of premises, from such premises selected at random unless, by notice in writing to a monitoring local authority (whether or not on the application of that authority), the Scottish Ministers otherwise direct.

(2) Samples are to be taken at the point of compliance determined in accordance with regulation 7(4)(a) to (d).

(3) Where a monitoring local authority is required in accordance with Schedule 2 to take more than one sample within a specified period, the samples shall be taken so that they are representative of the quality of water intended for human consumption purposes throughout that period.

(4) A monitoring local authority shall take and analyse a sample of water from every Type A supply to which regulations 19 and 20 apply, for the parameters referred to in Schedule 1, using the methodology specified in Schedule 5 as soon as it has been classified as a Type A supply under Part III.

(5) A monitoring local authority shall as soon as reasonably practicable and, in any event, within 28 days of being requested to do so by a relevant person, take and analyse a sample of water from a Type A supply which is representative of the quality of water intended for human consumption purposes throughout the year for compliance with the prescribed concentration or value or state for the parameters specified in regulation 7(2).

(6) Without prejudice to the monitoring obligations in this Part, a monitoring local authority shall have power to take and analyse a sample from a Type A supply in order to—

- (a) confirm or clarify the results of the analysis of a previous sample;
- (b) ascertain the effectiveness of remedial action taken in relation to the supply (whether or not such action was taken following service of a notice under section 76G of the 1980 Act⁽¹⁰⁾).

Numbers of samples: Type A supplies

23.—(1) Subject to paragraph (2) and regulations 21 and 22, in each year a monitoring local authority shall take, or cause to be taken the standard number of samples of water as regards residual disinfectant and each parameter listed in column (2) of Tables A and B in Schedule 2, and shall analyse the samples for compliance with the prescribed concentrations or values or states given in Schedule 1 for those parameters.

(2) Subject to paragraphs (4) and (5), where in respect of a parameter subject to check monitoring—

- (a) a monitoring local authority is of the opinion that the quality of water provided by a Type A supply is unlikely to deteriorate;
- (b) in each of two successive years the requirement mentioned in paragraph (3) is satisfied in relation to a parameter listed in Table A in Schedule 2; and
- (c) the monitoring local authority considers the concentration or value in respect of that parameter is unlikely to increase or, in the case of hydrogen ion (item 9 in Table A in Schedule 2), decrease to any significant extent in the following year,

the number of samples to be taken in that year in respect of that parameter may be the reduced number.

(3) The requirement referred to in paragraph (2)(b) is that an analysis of each sample taken in relation to the parameter in question has shown no significant variation and has established—

- (a) if the parameter is colony counts, no abnormal change;
- (b) if the parameter in question is hydrogen ion, a pH value that is not less than 6.5 and not more than 9.5; and
- (c) in any other case, a concentration or value or state given in Schedule 1 that is constant and significantly better than the prescribed concentration or value or state for that parameter.

(4) Paragraph (2)(b) shall apply in the period from 3rd July 2006 to 2nd July 2008, so that the reduced number of samples may be taken in that period in relation to a parameter if—

- (a) it would have been permissible if these Regulations had been in force throughout the period of at least two years mentioned in that paragraph; or
- (b) the monitoring local authority did not sample as frequently as required by paragraph (1) during the period from 3rd July 2004 to 2nd July 2006 (“the relevant period”) before these Regulations came into force but an assessment of the samples actually taken during that period, whether or not for the purpose of the 1992 Regulations, justify the reduction.

(5) Except in a case where the provisions of paragraph (6) apply, in the period from 3rd July 2006 to 31st December 2006 the number of samples taken shall be—

- (a) not less than one half of the standard number of samples, which number shall be rounded up, if necessary, to the nearest whole number; or
- (b) where paragraph (2) applies, not less than one half of the reduced number of samples, which number shall be rounded up, if necessary, to the nearest whole number.

⁽¹⁰⁾ Section 76G was added by the Water Act 1989, Schedule 22, paragraph 1.

(6) Where, in the period 3rd July 2006 to 31st December 2006, the number of samples to be taken by virtue of paragraph (5) in relation to a parameter is 1, the monitoring local authority need not sample that parameter if a sample has been taken by that authority in respect of that supply in the period 1st January 2006 to 2nd July 2006, whether or not for the purposes of the 1992 Regulations.

(7) Where the analysis of the reduced number of samples taken by a monitoring local authority has established in respect of any parameter listed in Tables A and B in Schedule 2 that the prescribed specification for that parameter or, as the case may be, the relaxed specification for that parameter or, as the case may be, the relaxed specification therefor specified in an authorisation granted under Part V has been contravened, the monitoring local authority shall revert to carrying out—

- (a) the number of samples proportionate to the remainder of that year in respect of that parameter; and where the result is not a whole number, that proportion rounded up to the nearest whole number; and
- (b) for subsequent years, the standard number of samples.

(8) Samples required to be taken by this regulation shall be taken so that they are representative of the quality of water intended for human consumption purposes throughout the year.

(9) In this regulation, “the standard number” means, in relation to each parameter listed in column (2) of Tables A and B in Schedule 2, the relevant number shown for each parameter in those Tables in the columns for levels 1 to 3 respectively; and “the reduced number” means, in relation to each parameter listed in column (2) of Table A of that Schedule, the relevant number shown for each parameter in brackets in the columns for those levels.

Monitoring: total indicative dose and tritium

24.—(1) Where the Scottish Ministers determine that either of the conditions specified in paragraph (2) is satisfied in respect of any area within the area of a monitoring local authority, they shall by notice in writing to that authority—

- (a) specify that area;
- (b) specify which condition or conditions in paragraph (2) is or, as the case may be, are satisfied; and
- (c) confirm that any Type A supply in that area need not be monitored in respect of the parameter to which the relevant condition relates.

(2) The conditions specified in this paragraph are that Type A supplies in the area specified in the notice under paragraph (1) would—

- (a) give rise to a calculated total indicative dose in respect of radioactivity that is well below the value specified in column (3) of Table C in Schedule 1; or
- (b) as the case may be, contain a level of tritium that is well below the concentration specified in column (3) of Table C in Schedule 1.

(3) Where the Scottish Ministers determine that a condition in paragraph (2) specified in a notice under paragraph (1) is no longer satisfied, they shall, by notice in writing, revoke any notice given under paragraph (1) to the extent it applies in respect of that condition.

(4) Where a notice under paragraph (1) has been given to a monitoring local authority, and until such time as that notice is revoked, the monitoring local authority need not monitor any Type A supply in the area to which the notice relates in respect of a parameter to which the condition or conditions, as the case may be, in the notice applies.

Additional monitoring

25.—(1) This regulation applies to every Type A supply sampled by a monitoring local authority in accordance with this Part.

(2) A monitoring local authority shall sample every supply in its area in respect of any property, element, micro-organism, parasite or substance which fulfils the conditions specified in paragraph (3).

(3) The conditions specified in this paragraph are that—

- (a) the supply may have or contain a property, element, micro-organism, parasite or substance not listed in Schedule 1; and
- (b) the monitoring local authority considers that the concentration, amount or number of the property, element, micro-organism, parasite or substance may be such that it may (whether alone or in combination with a parameter or any other property, element, micro-organism, parasite or substance) cause the supply to fail to satisfy the provisions of Part IV or, if a departure has been authorised under Part V in relation to that supply, those provisions as read with the terms of that departure.

(4) A monitoring local authority shall cause to be taken such samples at such frequency as it considers appropriate having regard to any anticipated risk of danger to human health, and which are representative of the quality of water intended for human consumption purposes throughout the year.

Decision on audit monitoring

26.—(1) Where a monitoring local authority has completed an investigation in accordance with Schedule 3 and is satisfied, taking into account the matters specified in Schedule 4, that one or more parameters referred to in column 2 of the Table in Schedule 3 is, or are, not likely to be present in a Type A supply in its area in concentrations which could lead to the risk of a breach of the prescribed specification in respect of such parameter or parameters as specified in Tables B and C in Schedule 1, it may decide not to monitor that parameter or those parameters in respect of that supply.

(2) Before making a decision under paragraph (1), the monitoring local authority shall notify—

- (a) the relevant person and any responsible person in relation to the supply;
- (b) the Health Board in whose area the supply is located; and
- (c) any neighbouring monitoring local authority which may have an interest in the supply.

(3) The notification under paragraph (2) shall include the following details concerning the particular Type A supply—

- (a) the average volume of water provided by the supply and the number of persons served by it;
- (b) the parameter or parameters to which the decision relates and the results of the investigations undertaken in accordance with Schedule 3;
- (c) the period during which the decision will have effect (which, subject to paragraph (6), shall be such period as the monitoring local authority considers reasonable);
- (d) the period (which shall be not less than 28 days) in which representations may be made to the monitoring local authority in respect of the decision; and
- (e) such other information which the monitoring local authority considers necessary.

(4) A monitoring local authority shall not implement the decision until after the expiry of the period for making representations specified in any notification under paragraph (2), and after considering any representations made in response to such a notification.

(5) As soon as reasonably practicable after implementing any decision, the monitoring local authority shall notify the persons specified in paragraph (2) of—

- (a) the parameter or parameters listed in column 2 of the Table in Schedule 3 which the authority considers is, or are, not likely to be present in the supply in concentrations

which could lead to the risk of a breach of the prescribed specification in respect of such parameter or parameters as specified in Tables B and C in Schedule 1;

- (b) the conditions specified in column 4 of the Table in Schedule 3 which, the authority considers are satisfied, and a statement of the reasons for this;
- (c) in respect of each parameter, the period during which the decision will have effect; and
- (d) any other information which the authority considers necessary.

(6) A monitoring local authority shall, at least once in every 5 years, review any decision made under this regulation, and may modify or revoke it at any time.

(7) A monitoring local authority shall notify the persons specified in paragraph (2) about any decision to modify or revoke any decision made under this regulation.

(8) Where a decision has been revoked under paragraph (6), a monitoring local authority shall not make a further decision under this regulation in respect of that parameter or those parameters before the expiry of a period of 2 years from the date on which the revocation takes effect.

PART VIII

TYPE B SUPPLIES: RISK ASSESSMENTS, INVESTIGATIONS AND MONITORING

Type B Supplies: Risk Assessments

27.—(1) A monitoring local authority shall, in respect of a Type B supply, provide such advice and assistance to a relevant person as will enable that person to undertake an assessment (“risk assessment”) of the potential risks to human health arising from their supply.

(2) A monitoring local authority may carry out a risk assessment (whether or not on the request of a relevant person or consumer), taking into account the matters specified in Schedule 4, of the potential health risks associated with any Type B supply in their area.

Investigations: Table D of Schedule 1 microbiological and chemical parameters

28.—(1) Where a monitoring local authority has reason to believe that a Type B supply fails, or is likely to fail, to satisfy a requirement of regulation 7(3), that authority may take such steps as it considers necessary to identify the following matters—

- (a) the cause and extent of the failure, or as the case may be, the apprehended failure;
- (b) the microbiological and chemical parameters listed in Table D of Schedule 1 in respect of which the prescribed specification 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 specification is attributable to—
 - (i) the domestic distribution system;
 - (ii) the maintenance of that system; or
 - (iii) neither of those matters.

(2) As soon as reasonably practicable after the matters specified in paragraph (1) have been identified, the monitoring local authority shall notify the relevant person and the appropriate local authority of those matters and of the steps that the authority considers it is necessary or desirable to take in the interests of health.

(3) As soon as reasonably practicable after the relevant person receives notification given under paragraph (2), that person shall notify in writing every consumer, if any, of that supply likely to be

affected by the matters specified in paragraph (1) of the cause and effect of the failure or, as the case may be, the apprehended failure, and shall provide to those consumers, details of the steps (if any) specified in accordance with paragraph (2).

Monitoring duties and powers

29.—(1) For the purpose of determining whether a Type B supply satisfies the provisions of regulation 7(3), a monitoring local authority may take or cause to be taken, and analyse, or cause to be analysed, from any Type B supply located within its area such number of samples, if any, of water which the authority considers is necessary to establish whether the supply is wholesome.

(2) Samples from a Type B supply or from premises served by such a supply, shall be taken so that they are representative of the quality of water intended for human consumption purposes throughout the year and, in a case where a Type B supply serves a number of premises, from such premises selected at random as will ensure, insofar as is reasonably practicable, that their analysis will produce data which is representative of the quality of water so sampled.

(3) Samples are to be taken at the point of compliance determined in accordance with regulation 7(5).

(4) A monitoring local authority may at any time take and analyse a sample of water from any Type B supply (whether or not on the request of a relevant person or a consumer served by such a supply) for the parameters referred to in Table C of Schedule 2 to these Regulations, using the methodology specified in Schedule 5.

(5) A monitoring local authority shall as soon as is practicable and in any event, within 28 days of being requested to do so by a relevant person in relation to a Type B supply, or a consumer of such a supply serving premises in their area, take and analyse a sample from the supply representative of the quality of water intended for human consumption purposes throughout the year for compliance with the parameters specified in regulation 7(3).

(6) Without prejudice to the monitoring powers and duties in this regulation, a monitoring local authority shall have power to take and analyse a sample from a Type B supply in order to—

- (a) confirm or clarify the results of the analysis of a previous sample;
- (b) ascertain the effectiveness of remedial action taken in relation to the supply (whether or not such action was taken following service of a notice under section 76G of the 1980 Act⁽¹¹⁾).

Additional Monitoring

30.—(1) This regulation applies to any Type B supply sampled by a monitoring local authority in accordance with regulation 29.

(2) A monitoring local authority may sample every appropriate Type B supply in its area in respect of any property, element, micro-organism, parasite or substance which fulfils the conditions specified in paragraph (3).

(3) The conditions specified in this paragraph are that—

- (a) the supply may have or contain a property, element, micro-organism, parasite or substance not listed in Table C of Schedule 2; and
- (b) the monitoring local authority reasonably believes that the concentration, amount or number of the property, element, micro-organism, parasite or substance may be such that it may (whether alone or in combination with a parameter or any other property, element, micro-organism, parasite or substance) cause the supply to fail to satisfy the provisions of regulation 7(3).

(11) Section 76G was added by the Water Act 1989, Schedule 2, paragraph 1.

(4) A monitoring local authority may cause to be taken such samples at such frequency as it considers appropriate having regard to any anticipated risk of danger to human health, and which are representative of the quality of water intended for human consumption purposes throughout the year.

PART IX

PRIVATE WATER SUPPLIES: SAMPLING, ANALYSIS AND CHARGING

Collection and analysis of samples

31.—(1) A monitoring local authority shall secure, so far as is reasonably practicable, that in taking, handling, transporting, storing and analysing any sample taken for the purposes of these Regulations, or causing any such sample to be taken, handled, transported, stored and analysed, the appropriate requirements are satisfied.

(2) In paragraph (1), “the appropriate requirements” means such of the following requirements as are applicable—

- (a) that the sample is representative of the quality of the water intended for human consumption purposes at the point of compliance specified in regulation 7(4) or (5) at the time of sampling;
- (b) that the sample is not contaminated when being taken or subsequently;
- (c) that the sample is kept at such temperature and in such conditions as will secure that there is no material alteration of the concentration or value or specification for the measurement or observation of which the sample is intended;
- (d) that the sample is analysed as soon as may be after the time it has been taken—
 - (i) by, or under the supervision of, a person who is competent to perform that task; and
 - (ii) with the use of such equipment as is suitable for the purpose;
- (e) that any laboratory at which samples are analysed has a system of analytical quality control that is subject from time to time to checking by a person who is—
 - (i) not under the control of either the laboratory or the monitoring local authority; and
 - (ii) approved by the Scottish Ministers for that purpose.

(3) A monitoring local authority shall maintain such records as are sufficient to enable it to establish, in relation to each sample taken for the purposes of these Regulations that such of the appropriate requirements as are applicable to that sample have been satisfied.

(4) Subject to paragraph (6), for the purpose of establishing, within acceptable limits of deviation and detection, whether the sample contains concentrations or values or specifications which contravene the prescribed concentrations or values or specifications, or exceed the specifications for indicator parameters—

- (a) the method of analysis specified in column (2) of Table A in Schedule 5 shall be used for determining compliance with the parameter specified in relation to that method in column (1);
- (b) the method of analysis used for determining compliance with a parameter specified in column (2) of Table B in Schedule 5 must be capable, at the time of use—
 - (i) of measuring concentrations or values or specifications equal to the parametric value with the trueness and precision specified in relation to that parameter in columns (3) and (4) of that Table; and
 - (ii) of detecting the parameter at the limit of detection specified in relation to that parameter in column (5) of that Table;

- (c) the method of analysis used for determining compliance with hydrogen ion parameter must be capable, at the time of use, of measuring concentrations equal to the parametric value with a trueness of 0.2 pH units and a precision of 0.2 pH units; and
 - (d) the method of analysis used for odour and taste parameters must be capable, at the time of use, of measuring values equal to the parametric value with a precision of 1 dilution number at 25°C.
- (5) For the purposes of paragraph (4)—
- “limit of detection” is to be calculated as—
- (a) three times the relative within batch standard deviation of a natural sample containing a low concentration of the parameter; or
 - (b) five times the relative within batch standard deviation of a blank sample; and
- “precision” (the random error) is to be calculated as twice the standard deviation (within a batch and between batches) of the spread of results about the mean; and
- “trueness” (the systematic error) is to be calculated as the difference between the mean value of the large number of repeated measurements and the true value.
- (6) Subject to paragraph (8), the Scottish Ministers may, on the application of any person, authorise a method of analysis other than that specified in paragraph (4)(a) (“the prescribed method”).
- (7) An application for the purpose of paragraph (6) shall be made in writing and shall be accompanied by—
- (a) a description of the method of proposed analysis; and
 - (b) the results of the tests carried out to demonstrate the reliability of that method and its equivalence to the prescribed method.
- (8) The Scottish Ministers shall not authorise the use of the method proposed in an application under paragraph (6) unless they are satisfied that the results obtained by the use of that proposed method are at least as reliable as those produced by the use of the prescribed method.
- (9) An authorisation under paragraph (6) may be subject to such conditions as the Scottish Ministers think fit.
- (10) The Scottish Ministers may at any time by notice in writing to the person to whom an authorisation under paragraph (6) has been given, revoke the authorisation; and no such notice shall be served later than 3 months before the date on which the revocation is stated to take effect.
- (11) Within 28 days of the results of analysis of any sample of a private water supply taken from any premises being available to the monitoring local authority which took the sample, or caused it to be taken, the monitoring local authority shall notify the relevant person of the results of that analysis, and any other person who is to be charged under regulation 33 for the taking and analysis of the sample from those premises.

Sampling of private water supplies: further provision

32. As soon as a monitoring local authority has reasonable grounds for believing that any element, organism or substance, other than residual disinfectant or a parameter, whether alone or in combination with a parameter or any other element, micro-organism, parasite or substance, may cause a private water supply serving premises located in the area of that authority to be a supply which does not satisfy—

- (a) the provisions of Part IV; or
- (b) if a departure has been authorised under Part V in respect of a Type A supply, those provisions as read with the terms of that authorisation,

it shall take, or cause to be taken, sufficient samples from the private water supply in respect of that element, organism or substance, in order to establish whether the supply is wholesome.

Charges for sampling, analysis and risk assessment

33.—(1) A local authority may charge a person for expenses reasonably incurred by it—

- (a) in respect of a Type A supply, for—
 - (i) sampling a supply in accordance with these Regulations, up to a maximum of £70 per visit to any premises for that purpose;
 - (ii) the analysis of samples—
 - (aa) subject to check monitoring (regulation 19), up to a maximum of £75 per visit;
 - (bb) subject to audit monitoring (regulation 20), up to a maximum of £435 per visit;
 - (iii) preparatory work, including if required, visiting premises or the source of a Type A supply, in relation to a risk assessment to be carried out under regulation 16(1) and (2), up to a maximum of £70;
 - (iv) the carrying out of a risk assessment under regulation 16(1) and (2), up to a maximum of £50;
 - (v) the review of a risk assessment under regulation 16(4), up to a maximum of £50; and
- (b) in respect of a Type B supply, for—
 - (i) sampling a supply in accordance with these Regulations, up to a maximum of £70 per visit to any premises for that purpose;
 - (ii) the analysis of samples, up to a maximum charge of £48 per visit to any premises for that purpose;
 - (iii) preparatory work, including if required, visiting premises or the source of a Type B supply, in relation to a risk assessment to be carried out under regulation 27(2), up to a maximum of £70; and
 - (iv) the carrying out of a risk assessment under regulation 27(2), up to a maximum of £50;

(2) Where a local authority has undertaken additional monitoring of a private water supply under regulation 25 or 30, that authority may charge a person for the expenses reasonably incurred by it.

(3) A local authority shall not charge for the expenses incurred by it in the taking and analysis of any sample taken for the purposes of regulation 22(6)(a) or 29(6)(a).

(4) Where in relation to any private water supply there is more than one person who may be charged, the local authority shall, in determining who is to be charged and any apportionment of that charge, have regard to the terms (if any) on which the water is supplied and the purposes for which it is used.

PART X

PRIVATE WATER SUPPLIES: RECORDS AND INFORMATION

Register of private water supplies

34.—(1) Subject to paragraph (2), a local authority shall prepare and maintain, in respect of every private water supply to premises in its area, a register containing information about—

- (a) whether the supply is—
 - (i) Type A and, if so, its level as determined under Part III;
 - (ii) Type B; or
 - (iii) subject to paragraph (2), a supply in respect of which the provisions of regulation 3 apply;
 - (b) the name and address of every relevant person in relation to the supply;
 - (c) the addresses of premises which are served by the supply, and the purposes for which the water is supplied;
 - (d) a description of the source of the supply, including—
 - (i) whether the supply is taken from a watercourse, loch, spring, well or borehole, or any other source or combination of sources; and
 - (ii) the location of the source of the supply (whether or not in the area of that local authority), including the appropriate Ordnance Survey National Grid Reference as regards the location of that source;
 - (e) the estimated maximum average volume of water provided by the supply and the number of persons served by the supply on any one day;
 - (f) any treatment carried out in relation to the supply;
 - (g) in respect of a Type A supply, any applications for a departure under Part V in relation to the supply, any departures authorised, and any revocations or modifications of such departures;
 - (h) the results of any samples taken and analysed in relation to the supply under these Regulations;
 - (i) any investigations carried out, and any action taken following such investigations in relation to the supply;
 - (j) any enforcement notices served by the authority in relation to the supply under section 76G of the 1980 Act (whether or not confirmed by the Scottish Ministers under section 76H of that Act), including—
 - (i) the particulars of the person on whom the notice was served;
 - (ii) the date of service of the notice;
 - (iii) the matters specified in subsection (2) of that section;
 - (k) a copy of any risk assessment carried out under these Regulations in relation to the supply;
 - (l) in respect of a Type A supply, details of any decisions made under regulation 26 in respect of the supply; and
 - (m) such other information as the local authority may decide.
- (2) In respect of a private water supply—
- (a) which is used in the circumstances provided for in regulation 3(1), the requirements of paragraph (1) shall apply only in relation to sub-paragraphs (a) to (f) of that paragraph; and
 - (b) to which provisions of regulation 3(2) apply, the requirements of paragraph (1) shall apply only in relation to sub-paragraphs (a), (b) and (d) to (f) of that paragraph.
- (3) Subject to paragraph (4), a local authority shall make—
- (a) initial entries in the register in respect of the matters mentioned in paragraph (1) within six months after the date of coming into force of these Regulations;
 - (b) entries in respect of the matters mentioned in paragraph (1)(g) and (j) and within 28 days of the date of the authorisation and notice respectively; and

(c) entries relating to the results of the analysis of samples taken in accordance with regulation 31 within 28 days of the day on which the result is first known to the authority.

(4) Where it appears to a local authority that a private water supply is to be used or is being used for the first time (or for the first time after being out of use for a period of twelve months or more), that local authority shall make initial entries in the register in respect of the matters mentioned in paragraph (1) within 3 months of first becoming aware of the private water supply.

(5) Without prejudice to paragraphs (3) and (4), the local authority shall at least once, and no later than 31st March, in each year review and bring up to date the register required to be kept by paragraph (1).

(6) Nothing in this regulation shall require a local authority to retain a record of any information mentioned in paragraph (1) at any time more than fifteen years after the date on which the information was first entered in the register.

Provision of information

35.—(1) A local authority shall make available for inspection by the public, in such places as it reasonably considers appropriate to ensure adequate accessibility, at all reasonable hours and free of charge, any register maintained by it in accordance with regulation 34.

(2) A local authority shall afford to any person, facilities for obtaining copies of entries, on payment of reasonable charges.

(3) A local authority shall provide, upon reasonable request, to—

- (a) the Scottish Ministers;
- (b) the Scottish Environment Protection Agency;
- (c) the Health Board in whose area the supply is located,

such information as may be required from time to time on the matters contained within the register maintained in accordance with regulation 34.

(4) A local authority shall afford to any—

- (a) neighbouring local authority, upon request, such information relating to an entry within the register maintained in accordance with regulation 34 as is considered necessary to enable that authority to fulfil its obligations under these Regulations; and
- (b) to a neighbouring local authority, upon request, such information as is reasonably required to ascertain whether premises in its area are served by a private water supply.

(5) Not later than 31st March in each year, in respect of the preceding calendar year, a local authority shall provide the Scottish Environment Protection Agency with a copy of the register required to be kept under regulation 34.

(6) Not later than 31st March in each year, in respect of the preceding calendar year, a local authority shall provide—

- (a) the Drinking Water Quality Regulator for Scotland⁽¹²⁾;
- (b) the Scottish Environment Protection Agency; and
- (c) the Health Board in whose area the supply is located,

with a completed annual return in accordance with the form provided for that purpose by the Scottish Ministers.

(7) Paragraph (6) is without prejudice to section 16 of the Water Industry (Scotland) Act 2002⁽¹³⁾.

⁽¹²⁾ The office of the Drinking Water Quality Regulator for Scotland was established by Part 2 of the [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#).

⁽¹³⁾ [2002 \(asp3\)](#), as amended by the [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#).

Information Notice on premises

36. At any premises where a private water supply is supplied or used as part of a commercial or public activity, there shall be prominently displayed in a location to which the public reasonably have access, an information notice which has been provided by the monitoring local authority for that purpose.

PART XI MISCELLANEOUS

Revocations and savings

37.—(1) With effect from 3rd July 2006—

- (a) the 1992 Regulations;
- (b) the Private Water Supplies (Scotland) Amendment Regulations 1998⁽¹⁴⁾; and
- (c) regulation 39(1)(c) of the Water Supply (Water Quality) (Scotland) Regulations 2001⁽¹⁵⁾,

are revoked.

(2) Notwithstanding the revocation of the 1992 Regulations by paragraph (1), the following provisions shall continue to have effect on and after 3rd July 2006 as they had effect immediately before that date—

- (a) regulation 20 (collection and analysis of samples), in respect of any sample of water from a private supply taken on or before 2nd July 2006; and
- (b) regulation 21 (charges for sampling and analysis) in respect of expenses incurred by a council on or before 2nd July 2006.

(3) Notwithstanding the revocation of the 1992 Regulations by paragraph (1), a local authority shall, as at 3rd July 2006, retain all information obtained in accordance with Part IV of those Regulations for a period of fifteen years from the date upon which it was obtained.

St Andrew's House,
Edinburgh
19th April 2006

RHONA BRANKIN
Authorised to sign by the Scottish Ministers

⁽¹⁴⁾ S.I. 1998/1856 .

⁽¹⁵⁾ S.S.I. 2001/207. Regulation 39(1)(c) revokes regulation 23(b) of the Private Water Supplies (Scotland) Regulations 1992 (S.I. 1992/575).