

EXECUTIVE NOTE

THE PRIVATE WATER SUPPLIES (SCOTLAND) REGULATIONS 2006 SSI/2006/ 209

1. The above instrument was made by the Scottish Ministers in exercise of the powers conferred by sections 76F(5) to (8), 76J, 101(1) and (1A) and 109(1) of the Water (Scotland) Act 1980 and section 2(2) of the European Communities Act 1972. The instrument is subject to negative resolution parliamentary procedure.

Background

2. Private water supplies are currently regulated by the Private Water Supplies (Scotland) Regulations 1992, which give local authorities discretionary powers to monitor such supplies in order to establish whether they meet wholesomeness standards specified in those Regulations. Local authorities also have powers to require the improvement of supplies where they do not meet those standards. The Private Water Supplies (Scotland) Regulations 2006 (“the 2006 Regulations”) supersede the Private Water Supplies (Scotland) Regulations 1992 and implement Council Directive 98/83/EC (“the Drinking Water Directive”) in respect of private water supplies.

3. The Drinking Water Directive updates the previous Directive 80/778/EEC to take account of medical, scientific and technological advances as regards drinking water quality. The Drinking Water Directive prescribes revised standards of wholesomeness against which the quality of water intended for human consumption is to be assessed. Further, the 2006 Regulations take into account World Health Organisation Guidelines on Drinking Water Quality¹ and the Scottish *E.coli* 0157 Task Force Report² which have also made recommendations in relation to private water supplies and their quality.

4. The Drinking Water Directive has been implemented in respect of the public supply (i.e. water provided by Scottish Water in pursuance of its core functions) through the Water Supply (Water Quality) (Scotland) Regulations 2001. The primary legislation pertaining to water supplies in Scotland, including private supplies is and will remain the Water (Scotland) Act 1980.

Policy objectives

5. The quality of water from private water supplies is highly variable and when poor can cause significant health problems. The 2006 Regulations implement the Drinking Water Directive in respect of private water supplies and enhance existing domestic regulatory provision regarding such supplies, to ensure the provision of clean and wholesome drinking water. It is estimated that around 150,000 people in Scotland rely on a private water supply, and a much larger number of people use them occasionally each year. The 2006 Regulations introduce tighter monitoring of larger private water supplies and all supplies to commercial or public activities, and ensure there is a consistent mechanism by which comprehensive information on private water supplies in Scotland is obtained and maintained. The 2006

¹ *Guidelines for Drinking-water Quality 3rd Edition*, World Health Organisation, Geneva 2004

² *Task Force Report on E. Coli 0157 – Final Report*, available at:

<http://www.food.gov.uk/multimedia/pdfs/ecolitaskfinreport.pdf>

Regulations, and the Private Water Supplies (Notices) (Scotland) Regulations 2006 which have been laid alongside these Regulations, strengthen local authorities' powers regarding private water supplies, placing a duty on a local authority to intervene where it considers a private water supply poses a risk to health, and gives local authorities powers to require those responsible for such supplies to make improvements to them so that water quality is improved or protected.

6. Both the World Health Organisation Guidelines and the *E.coli* 0157 Task Force Report stressed the benefits of carrying out a thorough risk assessment from the water source through treatment to the point of consumption. Risk assessments are therefore an important aspect of the Regulations, as a tool to better identify and understand the many factors affecting each private water supply. They will be used to inform both improvement works and future monitoring of a supply. The Executive believes that this approach is best calculated to deliver real and lasting improvements to private water supplies in Scotland.

7. The Executive's policy on private water supplies has three other key aspects. Firstly, the Private Water Supplies (Notices) (Scotland) Regulations 2006, which have been laid before Parliament alongside the 2006 Regulations, amend the Water (Scotland) Act 1980 to strengthen local authorities' powers to require improvements to private water supplies including creating an offence of failing to comply with an improvement notice.

8. Secondly, the Private Water Supplies (Grants) (Scotland) Regulations 2006, also laid before Parliament alongside the 2006 Regulations, make provision for a grant scheme to provide direct financial assistance to improve private water supplies. A private water supply user or the person responsible for a private water supply will be eligible for a grant where the supply has been found to require improvement, by being subject either to a temporary departure under the 2006 Regulations or a notice under section 76G of the Water (Scotland) Act 1980 or through a risk assessment under the 2006 Regulations. The grant scheme will be administered by local authorities and funded by the Executive.

9. Thirdly, the Executive is preparing an education and awareness campaign, to publish when the 2006 Regulations come into force in July 2006, to support local authorities and users in implementing the Regulations and improve public understanding of how to protect and improve private water supplies.

The Regulations

10. The Regulations provide a comprehensive regime for monitoring and ensuring the integrity of private water supplies in Scotland. They supersede the Private Water Supplies (Scotland) Regulations 1992.

11. Part II of the Regulations provides for local authorities to determine those persons, in relation to any supply, who are a relevant person for the purpose of the Regulations, and for a right of appeal to the sheriff against such a determination.

12. Part IV of the Regulations defines wholesomeness in relation to a private water supply, requiring that a supply does not contain any micro-organism, parasite or substance that, alone or in conjunction with another substance, constitutes a potential danger to human health.

13. The Regulations define larger private supplies, which provide 10 m³ or more of water a day or serving 50 or more persons, and supplies to commercial or public activities irrespective of their size, as “Type A supplies”. Parts V, VI and VII of the Regulations require these supplies to meet the revised water quality standards set by the Drinking Water Directive as prescribed in Schedules 1 and 2 to the Regulations. However, until the required standards can be achieved, Part V of the Regulations enables departures to be granted from the prescribed quality standards in limited circumstances and only where there is no risk to human health. Departures are strictly time limited.

14. The Regulations define smaller supplies which are exempt from the provision of the Drinking Water Directive as “Type B supplies”, and Part VIII of the Regulations provides that these must meet a suite of national water quality parameters prescribed in Schedule 1, Table D to the Regulations.

15. Parts VI and VIII of the Regulations make provision, for Type A and Type B supplies respectively, for the cause of a supply failure to be established and for appropriate remedial action to be taken. A key aspect of this is the provision for risk assessments in regulations 16 and 27, which the Executive considers to be an essential element of an effective drinking water quality surveillance and control programme.

16. Part X of the Regulations makes provision to ensure the collation of relevant, comprehensive information on private water supplies, requiring local authorities to prepare and maintain a register of private water supplies, to make this information available to the public, and requiring premises in which a private water supply is used as part of a public or commercial activity to prominently display an information notice (in line with one of the main recommendations of the *E.coli* 0157 Task Force Report).

17. The Regulations also make provision regarding the collection and analysis of samples by local authorities (regulations 31 and 32) and charging for risk assessments, sampling and analysis (regulation 33).

Consultation

18. The Scottish Executive has undertaken two consultations³ on the implementation of the Drinking Water Directive with respect to private water supplies and these involved a wide range of individuals, organisations and professional bodies. The first consultation, between November 2001 and February 2002, sought views on a variety of options for implementing the Drinking Water Directive and setting new national standards for private water supplies. The second consultation, between March and June 2005, sought views on the draft Regulations and proposals for a Grant Scheme to assist in bringing private water supplied up to modern standards. A substantial response was received to these consultations, and reports on both consultations have been published.⁴

³ *Private Water Supply Regulation – A Consultation*, Scottish Executive, November 2001, available at <http://www.scotland.gov.uk/consultations/environment/pwrc.pdf>, and *The Draft Private Water Supplies (Scotland) Regulations 2005 and Proposals for a Grant Scheme*, Scottish Executive, March 2005, available at: <http://www.scotland.gov.uk/Publications/2005/03/20902/55270>

⁴ *Private Water Supply Regulation – Consultation Report*, Scottish Executive, April 2002, available at: <http://www.scotland.gov.uk/library5/environment/pwsr.pdf> and *The Draft Private Water Supplies (Scotland) Regulations 2005 and Proposals for a Grant Scheme – Consultation Report*, Scottish Executive, November 2005, available at: <http://www.scotland.gov.uk/Resource/Doc/76169/0018966.pdf>

19. In responding to the consultations, the Executive has sought to balance concern regarding costs against the necessity to effectively implement the Drinking Water Directive and promote real and lasting improvements in private water supplies in Scotland.

Financial implications

20. The Regulations are required to transpose the provisions of the Drinking Water Directive and are necessary to ensure parity of regulation across Europe. The financial implications arising from the Regulations will be borne predominantly by rural communities and rural businesses. These can be split into capital costs, where a water supply requires improvements, and ongoing monitoring costs. Both these will vary, particularly capital costs, depending on the current state and size of the water supply and the risks it is exposed to. In relation to monitoring costs, it is reasonable that private water supply users meet the ongoing costs of ensuring their supply is safe, in the same way that public supply users pay water charges. A Regulatory Impact Assessment⁵ on the implications of these Regulations has been completed and published, and this concludes that the costs arising from the Regulations will be offset by the benefits of improved public health through improved drinking water quality.

21. Supplies which fail to meet the revised water quality standards of the 2006 Regulations will require to undertake improvement works. To offset this non-recurring capital cost the Executive is introducing a non-means tested grant scheme, under the Private Water Supplies (Grants) (Scotland) Regulations 2006, for individuals and businesses to help to improve their private water supply.

Scottish Executive April 2006

⁵ *Final Regulatory Impact Assessment - The Private Water Supplies (Scotland) Regulations 2006*, Scottish Executive, April 2006, available at: <http://www.scotland.gov.uk/Topics/Business-Industry/support/15242/1462>

Final Regulatory Impact Assessment

The Private Water Supplies (Scotland) Regulations 2006

The Private Water Supplies (Grants) (Scotland) Regulations 2006

Draft: The Private Water Supplies (Notices) (Scotland) Regulations 2006

Introduction

1. This Regulatory Impact Assessment (RIA) is based on the Partial Regulatory Impact Assessment consulted upon alongside the draft Private Water Supplies (Scotland) Regulations and proposals for a Private Water Supplies Grant Scheme¹ in March 2005. It has been published to accompany the laying of the Private Water Supplies (Scotland) Regulations 2006 (“the 2006 Regulations”) before Parliament.

Purpose and intended effect of the Regulations

(i) The Objective

2. The 2006 Regulations implement Council Directive 98/83/EC (“the Drinking Water Directive”) in respect of private water supplies. Their overriding objective is to ensure the provision of clean and wholesome drinking water. The 2006 Regulations introduce tighter monitoring of some types of private water supplies and require those responsible for such supplies to make improvements to them so that water quality is improved and protected.

(ii) The Background

3. The Drinking Water Directive, made by the European Parliament and Council on 3 November 1998 established a framework for European action on the quality of water intended for human consumption. The Drinking Water Directive set quality measures for drinking water standards which are generally in line with World Health Organisation guidelines for drinking water quality. These set out the concentration of a constituent that does not result in any significant risk to the health of a consumer, usually based on consumption over a lifetime.

4. The fundamental review of the previous Drinking Water Directive (80/778/EEC) was considered necessary to reflect current understanding of medical, scientific and technological issues surrounding the quality of drinking water. The Executive implemented the revised Drinking Water Directive in respect of the public water supply through the Water Supply (Water Quality) (Scotland) Regulations 2001 (SSI 2001 No. 207).

5. The 2006 Regulations implement the additional measures necessary to comply with the revised Directive, over and above those in the previous Directive (80/778/EEC) and the Water (Scotland) Act 1980, and replace the Private Water Supplies (Scotland) Regulations 1992. The 2006 Regulations will have financial implications for larger supplies – defined in the Drinking Water Directive as those providing 10m³ of water a day or serving 50 or more persons, and supplies to commercial or public activities (irrespective of their size). These

¹ *The Draft Private Water Supplies (Scotland) Regulations 2005 and proposals for a Private Water Supplies Grant Scheme – A Consultation* was published by the Scottish Executive on 25 March 2005 and is available at: <http://www.scotland.gov.uk/Publications/2005/03/20902/55285>

supplies are referred to as Type A supplies in the 2006 Regulations and this RIA and they will be required to meet the revised water quality standards set by the Directive. Smaller, non-Directive supplies are referred to as Type B supplies in the 2006 Regulations and this RIA.

6. The 2006 Regulations will give rise to two types of financial implications: capital costs, where a water supply requires improvement, and increased monitoring costs. Both these will vary, particularly the capital costs, depending on the current state of the water supply and the risks it is exposed to. The Executive is committed through the Private Water Supplies Grant (Scotland) Regulations 2006 to provide financial assistance with the cost of improvement work arising from the 2006 Regulations on a non-means tested basis up to a maximum of £800 per premises served by a private water supply. Private water supply users will be expected to meet the ongoing monitoring costs of ensuring that their supply is safe, in the same way that public supply users cover these costs when they pay water charges.

Consultation

(i) Within Government

7. The Division within the Scottish Executive responsible for producing this RIA consulted internally on its contents. They also consulted other UK Administrations (who are also working on implementing the Drinking Water Directive in relation to private water supplies), the independent consultant who prepared the Partial Regulatory Impact Assessment, the Drinking Water Quality Regulator for Scotland and Scottish Water (to benchmark laboratory analysis costs).

(ii) Public Consultation

8. An initial consultation in November 2001² outlined a variety of options regarding the future direction of the regulation of private water supplies in Scotland. The consultation discussed current thinking for the implementation of the Drinking Water Directive and the provision of new national standards. Responses confirmed that there was general support for improvement to the regulatory framework for private water supplies in Scotland. Some reservations were expressed about operational details and costs, and there were requests for clarification of some of the terms used. As far as is possible, given the requirement to implement the Drinking Water Directive, these points were addressed in the further, detailed consultation paper published in March 2005.

9. A Partial RIA was prepared for the Scottish Executive by an independent consultant and formed part of the March 2005 consultation. This was sent to a wide range of stakeholders, including local authorities, the Association of Community Councils, academic and professional institutions and rural, farming, business and tourism organisations and made available on the Scottish Executive website. 111 responses to the consultation were received from a cross section of interested parties. Copies of individual responses are available from the Executive's library services and a Report on the consultation has been published on the Executive's website.³

² *Private Water Supply Regulation – A Consultation* was published by the Scottish Executive in November 2001 and is available at: <http://www.scotland.gov.uk/consultations/environment/pwrc.pdf>

³ *The Draft Private Water Supplies (Scotland) Regulations and Proposals for a Private Water Supplies Grant Scheme – A Consultation Report* was published in November 2005 and is available at: <http://www.scotland.gov.uk/Resource/Doc/76169/0018966.pdf>

10. The responses indicated widespread support for the improvements promoted in the 2006 Regulations, particularly from health professionals. However, the compliance costs for rural communities and rural businesses which depend on private water supplies attracted criticism.

11. The Executive is sympathetic to these concerns and has revised the Regulations following consultation to ensure that they are proportionate, making the minimum requirements to protect human health and comply with the Drinking Water Directive and to promote real and lasting improvement in private water supplies in Scotland. A key change is to increase the focus of the 2006 Regulations on risk assessment so that parameters are monitored where required, allowing monitoring of many parameters to be reduced where that is justified.

Implementation Options for the Drinking Water Directive

12. In order to provide an appropriate framework within which to set the RIA, a number of mutually exclusive policy options were identified and analysed. These ranged from non-implementation of the Directive's requirements (the "do nothing" option) through to imposing the full weight of the Directive's requirements on all private water supplies in Scotland irrespective of their size or use. The potential economic impacts of the following four options have been assessed:

- Option 1: no new statutory provision for private water supplies ("do nothing option").
- Option 2: provision of a private water supply monitoring regime through a non-regulatory route ("non-regulatory option").
- Option 3: provision of a statutory private water supplies monitoring regime through the 2006 Regulations, including risk assessments.
- Option 4: provision of an alternative statutory private water supplies monitoring regime with no risk assessments.

Cost benefit analysis of each option

13. In considering the economic costs and benefits of each option, the whole package of measures introduced through the 2006 Regulations were considered for a range of outcomes including the successful transposition of the Directive's requirements; health outcomes; economic competitiveness; social justice; rural impacts and benefits to the UK as a whole. The full range of factors are listed in Tables 1 and 2.

14. Evaluation of Option 1 and Option 2 identified that these options would not satisfy the requirements of the Directive. These options would have no power of enforcement and would not provide any regulatory improvement or significant benefit to the existing conditions. They would be legally unacceptable and would incur significant infraction penalties for the Scottish Executive for failure to implement the Drinking Water Directive in respect of private water supplies.

Benefits

15. The main benefits of Options 3 and 4 would be ensuring that water supplied from private supplies was wholesome for human consumption. This would reduce the frequency

of adverse health impacts to the populations dependent upon private water supplies. This analysis of these impacts is based on estimates that the 2006 Regulations will apply to approximately 2,000 Type A supplies and approximately 19,000 Type B supplies.

16. A summary of the benefits associated with new private water supplies regulations (Option 3 and Option 4) is provided in Table 1. The extent of the benefit realised would be greater for Option 3 where the risk assessments involve knowledge transfer and education to operators of private water supplies, enabling an increased degree of self-regulation and management. This would allow potential failures to be avoided, rather than detecting them when they have occurred, as provided by Option 4.

Table 1: Benefits summary for 2006 Regulations

Factor	Benefit
Health - reduction in failing supplies	<ul style="list-style-type: none"> - Health benefit saving of up to £14.3m (Type A supplies) and a further £47.2M (Type B supplies) over a 15 year discounted period, based on contraction and reporting rates from existing failing samples from private water supplies. - Fewer people being exposed to failing supplies, leading to reduced risk of contracting illness from unwholesome water. - Reduced visits to GPs and requirement for medical treatment. - Reduced cost burden on local industry, commerce and health service.
Economic competitiveness	<ul style="list-style-type: none"> - Commercial activities that depend upon a consistent good quality water supply (e.g. tourist related, food production) can encourage repeat business, and avoid the costly risk of failure and contraction of illness. - Increased commercial opportunities to suppliers of water treatment systems and local tradespersons to undertake upgrading of supplies. - Less time off work or reduced efficiency due to illness related to unwholesome water supply.
Preventing failure through new powers (where it would have failed before)	<ul style="list-style-type: none"> - Local authorities will have greater enforcement powers to ensure that failing supplies are improved under the regulations, rather than having to pursue improvements through other routes.
Public confidence	<ul style="list-style-type: none"> - The changes in parameters being sampled and detection limits will improve protection to users of private water supplies. - With a satisfactory water treatment system, there will be a reduced likelihood of people becoming ill and adversely affecting confidence in the water supply.
Value for money (avoid costly prosecutions)	<ul style="list-style-type: none"> - It will be more cost effective to treat a failing supply than prosecuting failing supplies.
Impact on development (property)	<ul style="list-style-type: none"> - The quality of water supplied to existing properties will continue to be monitored, and improved where necessary. There will be no adverse impact on property prices, and all supplies will have wholesome water. - No new restrictions on development.
Awareness	<ul style="list-style-type: none"> - Awareness of failing supplies, and the reasons why they are failing, will lead to a more active management system, reducing future risk of failure (Option 3 only).
Social justice	<ul style="list-style-type: none"> - Monitoring and enforcement of compliance will apply to all failing supplies. - A consistent approach will be adopted nationally.

Environmental quality	- Surrounding environmental quality will be improved through the improved management of source conditions for private water supplies (Option 3 only).
Rural impacts	- Most private water supplies are in rural areas, where all the benefits will apply. - There will be an improvement in health where failing supplies are improved, resulting in an increased quality of life (e.g. reduction in the potentially long journeys required to seek medical treatment). - The increased awareness of potential impacts will lead to a knowledge building within the local area.
UK benefits	- Any measure that contributes towards meeting the Drinking Water Directive also has the effect of ensuring that any potential for costs associated with infractions proceedings are avoided.

Costs

17. The main costs associated with the 2006 Regulations will be the increased cost recovery by relevant local authorities for the costs they incur (annual increased monitoring costs) and the requirement to upgrade failing supplies. These upgrade costs will involve non-recurring implementation costs, followed by annual maintenance costs, where no routine maintenance may be carried out at present. A summary of the costs is presented in Table 2.

18. The water quality parameters to be sampled will be determined by the monitoring local authority, based on the nature and location of the supply, and the previous history of water quality sampled. The frequency of sampling is similar to the 1992 Regulations, but the 2006 Regulations place a clear duty on local authorities to ensure this monitoring takes place for Type A supplies. Relevant supplies which have not been subject to such monitoring in the past will see an increase in costs.

19. Option 3 will require additional costs to undertake risk assessments and deliver the education aspects. This will not be a large additional burden, as this can be undertaken during the routine sampling and administration by the relevant local authorities, and education material will be provided and funded centrally by the Scottish Executive.

Table 2: Costs summary for 2006 Regulations

Factor	Cost
Health - reduction in failure	- No additional costs identified.
Economic competitiveness	- Properties that already have a consistent good quality supply will not require upgrading. - Properties with failing supplies will require to be upgraded. Upgrade costs are non-recurring compliance costs, and will vary depending upon the size of the supply. Costs will vary depending on the degree of treatment present already (if any), and will typically be around £500-£1,000 for a single commercial property up to in excess of £10,000 for large supplies. - The costs of the regulations will be similar to the savings in health improvements, providing a cost neutral impact for the regulations. - Failing supplies will have to notify the relevant authorities, which if not addressed quickly could adversely impact any commercial activities relying on water quality.

Preventing failure through new powers (where it would have failed before)	- A more direct route for achieving compliance will improve efficiency within local authority administration in ensuring failing supplies comply.
Public confidence	- Users are less likely to be dissuaded from dealing with businesses or public activities that rely on private water supplies.
Value for money (avoid costly prosecutions)	- There will be minimal prosecution costs if treatment is actively encouraged along with education and awareness improved to illustrate adverse effects on non compliance.
Impact on development (property)	- There will be no additional costs to new development as the provision of wholesome water is already a requirement. Existing properties with failing supplies will have to invest to bring supplies up to an acceptable standard.
Awareness	- Raising awareness will be achieved through the routine sampling and through distribution of promotional guidance material as and when issued by the Scottish Executive.
Social justice	- Additional costs will be borne by the users/owners of private water supplies.
Environmental quality	- There are increased sampling costs, the scale of which is likely to be reduced through education and alterations in the local management around water supply sources (Option 3 only).
Rural impacts	- The costs will be borne predominantly in rural areas where private water supplies are located.
UK benefits	- Ensures that any potential for costs associated with infractions proceedings are avoided.

Quantifying and valuing the benefits

20. For each of the four options considered, the associated costs and benefits are summarised in Table 3.

Table 3: Summary of Cost Benefit from Options Considered (£m discounted over 15 years)

	Type A		Type B		Overall cost benefit outcome
	Benefit	Costs	Benefits	Costs	
Option 1: No new regulations.	0	£3.1m	0	£2.1m	-£5.2m
Option 2: Non-regulatory approach.	0	£4.3m	0	£2.1m	-£6.4m
Option 3: New regulations + risk assessment	£14.3m	£15.7m	£47.2m	£35.0m	+£10.8m
Option 4: New regulations only.	£7.9m	£14.6m	£26.2m	£29.2m	-£9.7m

21. Analysis of the four options appraised through the RIA process identified that Option 3, provision of a statutory private water supplies monitoring and enforcement regime as proposed in the March 2005 consultation, provides the most economically acceptable regulatory framework for the transposition of the Drinking Water Directive.

22. For Type A supplies, under Option 3, the benefits achieved in terms of reduced illness will be in the order of £14.3m discounted over a 15 year period, while the average predicted costs of implementing the regulations are in the order of £15.7m. This does not take into account the indirect commercial benefits of retaining customers, and wider environmental improvements. For Type B supplies the regulations, coupled with the risk assessment and education included in Option 3, have the potential to realise a benefit of a further £47.2m over a 15 year period, with average predicted costs being £35.0m.

23. These costs are based on the draft Regulations published in March 2005. Compared to those, the 2006 Regulations will reduce the ongoing monitoring costs given the increased potential to reduce monitoring based on a satisfactory risk assessment and a history of compliance. The impact of this reduction cannot be estimated accurately but would reduce the costs noted in Table 3 for Option 3, most notably possibly shifting the balance of costs and benefits for Type A supplies to a net benefit.

24. At present, the failure rates of samples range from typically 24% for larger supplies up to 58% for smaller supplies. Option 3 will reduce these failure rates by a combination of risk assessments, ensuring adequate and appropriate treatment is in place, improving awareness and providing education on management of supplies.

Equity and Fairness

25. The object of the 2006 Regulations is to protect human health from the adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome and clean. The provisions of the 2006 Regulations fall on all commercial or public activities served by a private water supply evenly and the costs and benefits will be borne equally across all businesses affected so there is no advantage to any particular group or sector.

26. The costs arising from the 2006 Regulations will be borne predominantly in rural areas where private water supplies are generally located. Owners of Type A supplies will be required to meet the costs of ensuring that their supply meets the quality standards set by these Regulations and the Drinking Water Directive. These costs will be offset by the benefits of improved public health through improved drinking water quality. For Type B supplies, owners will be encouraged to improve the quality of their supplies; the benefits of improved drinking water quality and improved public health offsetting upgrade costs which will be assisted, as for Type A supplies, through the Private Water Supplies Grant Scheme.

Small and Micro Business Test

27. The 2006 Regulations will affect businesses, and given the financial costs involved, their impact may be expected to be greater on small businesses. The Scottish Executive consulted with a range of groups and organisations that represent the interests of small and micro businesses. The Executive actively sought responses from such businesses and their representatives, including the Federation of Small Businesses, Scottish Tourism Forum and the Scottish Rural Property and Business Association. Their views have been taken into account in finalising the 2006 Regulations and ensuring that they are proportionate, imposing the minimum costs necessary to achieve the health benefits the Regulations will deliver. The Private Water Supplies Grant Scheme will benefit businesses, alongside other users and

individuals, through a non-means tested grant towards capital improvements to their private water supply.

Public Sector Threshold Test

28. There are unlikely to be any significant additional resource implications to enforcement authorities arising from the 2006 Regulations. Thus, a Public Service Threshold Test was not required.

Typical compliance costs

29. Initial compliance costs for Type A supplies will be borne by the monitoring local authorities, who will have discretionary powers to recover these costs up to a maximum fee of £630 per visit. This cost will then be passed on to the users of private water supplies. The £630 compliance cost is broken down as follows:

Sampling visit: £70 (this charge is to cover local authorities' administrative time and resources in preparing for the visit, time on site, travelling to and from the supply and follow up and advisory work)

Check monitoring £75 (Table A, Schedule 2 of the 2006 Regulations).

Audit monitoring: £435 (Table B, Schedule 2 of the 2006 Regulations).

Risk Assessment £50 (Regulation 16 of the 2006 Regulations).

30. Type A supplies which comply with the 1992 Regulations will not experience much change from present conditions, however, supplies that fail will require investment to upgrade. Typical compliance costs will vary depending upon the size of the supply and which water quality parameters require regular analysis in accordance with the 2006 Regulations. A threshold of £630 has been set to cap local authority charging. Small supplies with commercial or public activities that have not been subject to regular monitoring in the past will experience an increase in analysis costs initially until the local authority is satisfied with the water quality after which the analysis costs are likely to reduce. Costs to individuals and businesses will also vary depending on the other users that costs can be shared with, and the location of the supply and proximity to other supplies may affect the charge, if any, for a sampling visit.

31. Private water supplies failing to meet the quality standards set down in the 2006 Regulations will require to be improved. This will be a non-recurring cost and will depend upon the supply size and reason for failure; these costs are likely to vary from £500 to in excess of £10,000; averaging around £1,150 per supply affected. Such improvements will also require suitable maintenance and management procedures which will involve an ongoing annual cost.

32. Type B supplies are subject to 'on request' monitoring of a smaller, nationally-set, suite of quality measures and the monitoring local authority has discretionary powers to charge a fee of up to £118 per visit broken down as follows:

Sampling visit: £70 (this charge is to cover local authorities' administrative time and resources in preparing for the visit, time on site, travelling to and from the supply and follow up and advisory work)

Monitoring: £48 (Schedule 3 of the 2006 Regulations).

33. For Type B supplies a monitoring local authority may complete a risk assessment in accordance with regulation 27 of the 2006 Regulations where requested to do so. In that instance the local authority has discretionary powers to charge a maximum fee of £50 for this service plus, where not combined with a monitoring visit, their reasonable administrative costs in preparing for the visit, travelling to and from the site, and follow up work, to a maximum of £70 – a total of £120.

‘Test Run’ of Business Forms

34. The 2006 Regulations do not introduce any new forms which will impact directly on businesses. However, the Executive has prepared detailed guidance to assist local authorities in preparing the various forms of notification which will be required under the 2006 Regulations.

Competition Assessment

35. The 2006 Regulations are required to transpose the provisions of the Drinking Water Directive and are therefore necessary to ensure parity of regulation across Europe. The provisions of the 2006 Regulations fall on all commercial or public activities evenly and the costs and benefits will be borne equally across all businesses affected so there is no advantage to any particular group or sector. The 2006 Regulations will be competition neutral.

Enforcement, sanctions, monitoring and review

Enforcement

36. Enforcement of the 2006 Regulations will be undertaken by initially providing advice to private water supply users and operators. Option 3 will allow for risk assessment and educational material to be provided which will help ensure that practical measures to improve the water quality are in place at the early stages of implementing the regulations. If these measures are not successful in improving or protecting a water supply then there is the option to serve an improvement notice on the supply. Option 4 would use an improvement notice as the first step.

Sanctions

37. Legal enforcement action will only arise where those responsible for a private water supply fail to comply with the regulations. A further, connected set of regulations, the Private Water Supplies (Notices) (Scotland) Regulations 2006, amend the Water (Scotland) Act 1980 to create an offence for failure, by the relevant person, to comply with the terms of notice (‘an improvement notice’) issued under section 76G of that Act. It is anticipated that prosecutions will be rare.

Monitoring

38. The regulations will be put into practice and monitored by local authorities with the Drinking Water Quality Regulator for Scotland carrying out an overarching monitoring and advisory role.

Monitoring and Review

39. The 2006 Regulations implement our obligations under the Drinking Water Directive in respect of private water supplies. The European Commission is required to undertake a statutory review of the Directive in light of scientific and technical progress at least every five years. Member States may need to revise their implementing Regulations in light of such a review. The Executive will undertake a review of the Regulatory Impact Assessment within ten years of the commencement of the Regulations.

Contact

40. Any queries relating to this Regulatory Impact Assessment should be addressed to:

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Ministerial Statement

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Rhona Brankin

Rhona Brankin
Deputy Minister for Environment and Rural Development
19 April 2006