

2006 No. 210

WATER SUPPLY

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

<i>Made</i> - - - -	<i>19th April 2006</i>
<i>Laid before the Scottish Parliament</i>	<i>20th April 2006</i>
<i>Coming into force</i> - -	<i>3rd July 2006</i>

The Scottish Ministers, in exercise of the powers conferred by section 47 of the Local Government in Scotland Act 2003(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and Commencement

1. These Regulations may be cited as the Private Water Supplies (Grants) (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(b);

“the 2006 Regulations” means the Private Water Supplies (Scotland) Regulations 2006(c);

“approved expenditure” means the amount a local authority considers approved works will cost;

“approved works” means works in respect of which a grant is payable;

“estimated expenditure” means the amount estimated by an applicant that proposed works will cost; and

“proposed works” means the works which, in the opinion of an applicant for a grant under these Regulations, when completed will be likely to improve the nature or quality of a private water supply.

(2) 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(d), which has been recorded and is capable of being reproduced.

(a) 2003 asp 1.
(b) 1980 c.45.
(c) S.S.I. 2006/209.
(d) 2000 c.7.

Eligible person

3.—(1) Subject to these Regulations, a grant may be made to or in respect of an eligible person within the meaning of paragraph (2).

(2) Subject to regulation 10(a) and (b), an eligible person is a person who—

- (a) is—
 - (i) a relevant person within the meaning of the 2006 Regulations;
 - (ii) a responsible person within the meaning of the 2006 Regulations; or
 - (iii) a person who owns or occupies premises in Scotland in respect of which a private water supply is the sole or main supply of water for human consumption purposes (within the meaning of the 2006 Regulations) to those premises; and
- (b) provides or receives a private water supply which is the subject of—
 - (i) a temporary departure authorised under Part V of the 2006 Regulations;
 - (ii) a risk assessment carried out in accordance with Part VI or VIII of the 2006 Regulations; or
 - (iii) a notice served under section 76G of the 1980 Act^(a).

Application for a grant

4.—(1) An application shall be made in writing by, or on behalf of, an eligible person, and shall be submitted to the local authority in whose area premises served by a private water supply are located, on the application form provided by that authority for that purpose.

(2) An application shall contain the following information—

- (a) the name and address of the eligible person, and if different, the applicant;
- (b) a statement of the reasons why the person to whom the application relates is an eligible person;
- (c) a description of the source of the private water supply;
- (d) details of the proposed works and the estimated expenditure;
- (e) details of any other grant or financial assistance applied for or received in respect of the proposed works; and
- (f) the amount of grant claimed.

(3) The applicant shall provide to the local authority such additional information as may be required by the local authority to allow proper consideration of the application, including copies of any documentation concerning the matters specified in regulation 3(2)(b).

(4) A person may submit more than one application under this paragraph.

Purposes for which a grant may be approved

5. A local authority shall, subject to regulation 6, only approve an application for a grant in respect of works which are likely to improve the nature or quality of a private water supply, including the installation of treatment equipment, or for the provision of a new private water supply or domestic distribution system (within the meaning of the 2006 Regulations).

Determination of applications

6.—(1) Subject to regulations 7 and 10, a local authority may—

- (a) refuse an application, or may approve it in whole or in part;
- (b) cause such approval to be given, and any payments by way of grant to be made, subject to such conditions as it considers reasonable; and

^(a) Section 76G was inserted the Water Act 1989 (c.15), Schedule 27, paragraph 1, and was amended by the Food Safety Act 1990 (c.16), section 56 and the Water Industry (Scotland) Act 2002 (asp 3), schedule 6, paragraph 55.

(c) subject to paragraph (6), at any time, vary or revoke the approval and any conditions attached to the approval.

(2) A local authority shall as soon as reasonably practicable notify the applicant in writing whether the application is approved or refused, and if it is refused or approved in part shall give reasons in writing.

(3) Where a local authority decides to approve an application for a grant, it shall determine and notify the applicant of—

- (a) the approved works and the approved expenditure, which may be different from the proposed works and estimated expenditure detailed in the application; and
- (b) the amount of grant it intends to make as calculated in accordance with regulation 8.

(4) If, after an application for a grant has been approved, a local authority is satisfied that, owing to circumstances beyond the control of the applicant—

- (a) the approved works cannot be, or could not have been, carried out on the basis of the approved expenditure; or
- (b) the approved works cannot be, or could not have been, carried out without carrying out additional works which were not reasonably foreseeable at the time the application was made,

the local authority may re-determine the approved works and the approved expenditure, and may pay a supplementary grant in respect of that re-determined expenditure, but the amount of grant that may be awarded shall not, subject to regulation 8(2), exceed the difference between £800 and the amount of any grant previously made to the applicant under regulation 8(1).

(5) Before determining an application, a local authority may consult such persons and make such reasonable inquiries as it considers appropriate, and have regard to any representations made by those persons; and where it intends to take into account those representations or any matters arising from those inquiries, it shall notify the applicant and provide details about them.

(6) Before varying or revoking an approval or any condition attached to an approval, a local authority shall—

- (a) give to the applicant notice in writing of the action proposed to be taken and the reasons for it;
- (b) afford that person an opportunity to make representations about the action proposed to be taken within a period of at least 21 days; and
- (c) consider any such representations.

Restriction on grant for works already begun

7.—(1) Subject to paragraph (2), a local authority shall not approve an application, or any part of an application, for a grant if all, or any part, of the proposed works have already begun, unless it is satisfied that there was a good reason for this.

(2) A local authority shall not approve an application for a grant if the proposed works were completed before the application was made.

Payment and amount of grant

8.—(1) Subject to paragraph (2), a local authority may pay to an eligible person a grant of the lower of—

- (a) £800; or
- (b) the amount of the approved expenditure,

where it is satisfied that expenditure has been incurred or is to be incurred by that person for the purpose of, or in connection with, the carrying out of approved works.

(2) A local authority may pay to an eligible person a grant in excess of £800 where satisfied that the eligible person could not, without undue hardship, finance the expense of the approved works without such a grant.

Claim for, and payment of, a grant or further grant

9.—(1) Where a local authority has approved an application for a grant, it shall pay the grant, subject to the provisions of this regulation.

(2) The grant may be paid—

- (a) in whole after the completion of the approved works; or
- (b) in part by instalments as the approved works progress and the balance after completion of those works.

(3) A grant shall be paid only when the local authority is satisfied that—

- (a) the approved works have been satisfactorily completed; or
- (b) in the case of an instalment, the relevant part of the approved works has been satisfactorily completed.

(4) Subject to paragraph (5), where an eligible person has, in any of the five years preceding the date of application for a grant, been paid a grant in respect of premises and makes a further application for a grant under regulation 4 in respect of those premises, the local authority shall not determine that application unless it is accompanied by—

- (a) a further risk assessment carried out in accordance with Part VI or Part VIII of the 2006 Regulations; or
- (b) in a case where the local authority considers that a further risk assessment is not required, a statement of the reasons why the eligible person considers further works are required to improve the nature or quality of the supply.

(5) A local authority may approve a further application for a grant to an eligible person, but the amount of grant that may be awarded shall not, subject to regulation 8(2), exceed the difference between £800 and the amount of any grant previously made to that person under regulation 8(1).

Persons or premises in respect of which a grant is not payable

10. A local authority shall not make a grant to or in respect of—

- (a) any public body or office-holder (excluding a person who, or body which, only from time to time exercises functions of a public character);
- (b) any person erecting or causing to be erected a building to which the provisions of section 63 of the 1980 Act^(a) apply;
- (c) premises which are the subject of—
 - (i) a closing order under section 114 of the Housing (Scotland) Act 1987^(b);
 - (ii) a demolition order under section 115 of that Act; or
 - (iii) a dangerous building notice in terms of section 30 of the Building (Scotland) Act 2003^(c);
- (d) premises which comprise a dangerous building within the meaning of section 29 of the Building (Scotland) Act 2003;
- (e) empty or unoccupied premises; or

(a) 1980 c.45. Section 63 was amended by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 33 and Schedule 14; and the Water Industry (Scotland) Act 2002 (asp 3), Schedule 6, paragraph 41.

(b) 1987 c.26.

(c) 2003 asp 8.

- (f) premises which do not meet the tolerable standard provided for in section 86 of the Housing (Scotland) Act 1987(a), except in so far as that tolerable standard is not met in relation to an adequate piped supply of wholesome water.

Cases in which grants may be re-calculated, withheld or repaid

11.—(1) A local authority may withhold, reduce or recover the whole or any part of a grant otherwise payable to an eligible person under these Regulations where—

- (a) the approved works are not completed to the satisfaction of the local authority;
- (b) before the approved works are completed, the person to whom the grant is payable ceases to be an eligible person; or
- (c) the local authority believes that any information contained in an application made under regulation 4, or any information on which it based its decision to approve an application for a grant, was incorrect, inaccurate or incomplete.

(2) Before making any decision to withhold, reduce or recover any grant under paragraph (1), the local authority shall—

- (a) give to the eligible person written notification of the action proposed to be taken and the reasons for it;
- (b) afford that person an opportunity to make representations about the action proposed to be taken within such time and in such form as the authority thinks fit; and
- (c) consider any such representations.

St Andrew's House,
Edinburgh
19th April 2006

RHONA BRANKIN
Authorised to sign by the Scottish Ministers

(a) Section 86(1)(d) of the Housing (Scotland) Act 1987 provides that a house meets the tolerable standard for the purposes of that Act if the house has an adequate piped supply of wholesome water available within the house.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 47 of the Local Government in Scotland Act 2003 (asp 1) (“the 2003 Act”) requires local authorities to pay grants to eligible persons to enable them to improve their private water supply or to provide themselves with such a supply. These Regulations provide for the persons to whom, and the circumstances in which, a grant may be payable as well as the procedures for determining applications for a grant and its calculation.

Regulation 3 sets out who may be eligible for a grant (an “eligible person”).

Regulation 4 makes provision in relation to the information to be provided in, or in connection with, an application for a grant.

Regulation 5 specifies the purposes in respect of which a grant is available.

Regulation 6 sets out a local authority’s power to determine an application for a grant and provides for the notification of its decisions concerning the application. The local authority can approve or refuse an application or vary or revoke an approval of grant, subject to appropriate conditions. In approving an application, the local authority should specify the approved works in respect of which the grant is payable to carry out approved expenditure.

Regulation 8 provides for the amount of grant which is available (which will be the lower of £800 or the amount of approved expenditure). In a case of undue hardship, a local authority may make a grant in excess of that amount.

Regulation 9 makes provision in relation to the payment of the grant, which can be by instalments, as well as provision for a further grant to be paid in certain circumstances.

Regulation 10 specifies the persons or premises in respect of which a grant is not payable.

Regulation 11 makes provision to enable a local authority to re-calculate, withhold or recover any grant, where the circumstances specified in paragraph (1) of that Regulation apply.

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