
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 281

**The Public Water Supplies (Scotland)
Amendment Regulations 2017**

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Public Water Supplies (Scotland) Amendment Regulations 2017 and come into force on 27th October 2017.

(2) In these Regulations, “the 2014 Regulations” means the Public Water Supplies (Scotland) Regulations 2014⁽¹⁾.

Amendment of Part 1 of the 2014 Regulations

2.—(1) Part 1 (general) of the 2014 Regulations is amended in accordance with paragraphs (2) to (5).

(2) For regulation 1(3) substitute—

“(3) Subject to paragraph (4), these Regulations (except Part 15) apply, to the extent relevant, only in relation to—

- (a) water introduced into, or supplied through or from, any part of the public water supply system, including water supplied by Scottish Water pursuant to an arrangement under section 6(1)(b) of the Water Services etc. (Scotland) Act 2005⁽²⁾;
- (b) water supplied by Scottish Water by any other means, including from a tanker or in bottles or containers; and
- (c) water supplied with the help of services provided by Scottish Water, as described in section 30 of the Water Industry (Scotland) Act 2002⁽³⁾.”

(3) In regulation 1(4), for sub-paragraph (a) substitute—

- “(a) water which is both intended for sale in bottles or containers and either—
- (i) recognised as a natural mineral water by regulation 4(1) of the 2007 Regulations; or
 - (ii) required by regulation 10(1) or 13 of the 2007 Regulations to meet the requirements of schedule 2 of those Regulations;”

(4) In regulation 2(1)—

(a) after the definition of “the 2001 Regulations” insert—

““the 2007 Regulations” means the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007⁽⁴⁾”;

(b) after the definition of “area” insert—

(1) S.S.I. 2014/364, as amended by S.S.I. 2015/100 and S.S.I. 2015/346.

(2) 2005 asp 3.

(3) 2002 asp 3. Section 30 was amended by section 21(2) of the Water Services etc. (Scotland) Act 2005 (asp 3).

(4) S.S.I. 2007/483, amended by S.S.I. 2009/273, S.S.I. 2010/89, S.S.I. 2011/94, S.S.I. 2014/312, S.S.I. 2015/100 and S.S.I. 2015/363.

““blending point” means a point at which waters originating from two or more sources and treated for the purposes of their supply for human consumption purposes are combined under conditions that are designed to secure that, after such combination, the requirements of regulation 4(2) are satisfied;”;

(c) after the definition of “consumer” insert—

““consumer’s tap” means, in the case of water supplied from a distribution network, the point within premises at which the water emerges from a tap which is normally used for human consumption purposes;”;

(d) for the definition of “the Directive” substitute—

““the Directive” means Council [Directive 98/83/EC](#) on the quality of water intended for human consumption(5);”;

(e) after the definition of “disinfection” insert—

““Drinking Water Quality Regulator for Scotland” means a person appointed under section 7(1) of the Water Industry (Scotland) Act 2002;”

(f) in the definition of “human consumption purposes”, for sub-paragraph (b) substitute—

“(b) the purposes of the manufacture, processing, preservation or marketing of a product or substance intended for human consumption (unless, in accordance with Regulation [\(EC\) No 852/2004](#) of the European Parliament and of the Council on the hygiene of foodstuffs(6), the competent authority(7) is satisfied that the quality of the water supplied by Scottish Water for these purposes cannot affect the wholesomeness of a particular product or substance in its finished form);”;

(g) for the definition of “parameter” substitute—

““parameter” means a parameter referred to in column (2) of Table A, Table B or Table C, except in regulation 14A and schedule 3 where it means a parameter referred to in paragraph 2 of Part A of schedule 3 or in the first column of Table 1, Table 2 or Table 3 in that schedule;”;

(h) after the definition of “parameter” insert—

““point of compliance” means—

(a) in the case of water supplied from a distribution network—

(i) in relation to a parameter in Table A or Table B, the point or points specified for the parameter in column (5) of the table in question; and

(ii) in relation to any other micro-organism, substance or parasite, each point within premises at which it emerges from taps normally used for human consumption purposes;

(b) in the case of water supplied from a tanker, the point at which it emerges from the tanker;

(c) in the case of water put into a bottle or container, the point at which the water is put into the bottle or container; and

(d) in the case of water intended to be used in a food-production undertaking, the point at which the water is to be used in the undertaking;

(5) OJ L 330, 5.12.1998, p.32, as amended by Regulation [\(EC\) No 1882/2003](#) of the European Parliament and of the Council (OJ L 284, 31.10.2003, p.1), Regulation [\(EC\) No 596/2009](#) of the European Parliament and of the Council (OJ L 188, 18.7.2009, p.14), Commission Directive [\(EU\) 2015/1787](#) (OJ L 260, 7.10.2015, p.6) and Corrigendum (OJ L 111, 20.4.2001, p.31).

(6) OJ L 139 30.4.2004, p.1 as last amended by Regulation [\(EC\) No 219/2009](#) (OJ L 87, 31.3.2009, p.109).

(7) The competent authority is Food Standards Scotland or, where Food Standards Scotland has delegated this function to a local authority, the relevant local authority. See [S.S.I. 2006/3](#), relevantly amended by [S.S.I. 2015/100](#).

- “point of monitoring” means, in relation to a parameter in Table C, the point or points specified for the parameter in column (5) of that table;”;
- (i) for the definition of “private water supply” substitute—
- ““public water supply system” has the same meaning as it has in section 28(1) of the Water Services etc. (Scotland) Act 2005⁽⁸⁾;
- “risk assessment” means, in relation to a treatment works and its connected supply system, the assessment carried pursuant to regulation 30(2) (as updated, where applicable, by Scottish Water pursuant to paragraph (6) or (6A) of that regulation);”;
- (j) for the definition of “supply point” substitute—
- ““supply point”, in the case of water supplied from a distribution network, means a blending point, service reservoir, treatment works or other point within a water supply zone in relation to which the Drinking Water Quality Regulator for Scotland is satisfied that there would be no adverse change to the measured value of a parameter in a sample of the water taken at the point (as compared to the measured value of the parameter in samples of water taken at each point within premises at which it emerges from taps normally used for human consumption purposes within the water supply zone);”;
- (k) after the definition of “treatment works” insert—
- ““water” means water in relation to which these Regulations apply;
- “water quality standards” means requirements of regulation 4(2), as modified by virtue of any departure authorised under regulation 24(1) or 25(5) or granted pursuant to a request under regulation 25(7);”;
- (l) at the end of the definition of “water supply zone”, omit “and”; and
- (m) after the definition of “water supply zone” insert—
- ““wholesome” and cognate expressions have the meaning they have in the 1980 Act, as construed in accordance with section 109(1) of that Act⁽⁹⁾; and”.
- (5) In regulation 2(4)—
- (a) at the end of sub-paragraph (a), insert “and”;
- (b) in sub-paragraph (b) omit “Table 1, Table 2, Table 3 or”;
- (c) at the end of the sub-paragraph (b), for “; and” substitute “.”; and
- (d) omit sub-paragraph (c).

Amendment of Part 3 of the 2014 Regulations

3.—(1) Part 3 (wholesomeness of public water supplies) of the 2014 Regulations is amended in accordance with paragraphs (2) to (4).

- (2) In regulation 4(1), for “paragraphs (3) and” substitute “paragraph”.
- (3) In regulation 4(2)—
- (a) for “The requirements are that the water” substitute “At each point of compliance, water intended for human consumption purposes”;
- (b) in sub-paragraph (a), for “does” substitute “must”;

(8) 2005 asp 3.

(9) Section 109(1) (interpretation) of the 1980 Act provides that, in that Act, “wholesome” and cognate expressions (subject to any express provision or anything in the context to the contrary) are to be construed subject to the provisions of any regulations made under section 76J (standards of wholesomeness) of that Act. Since the provisions in regulation 4(1) and (4) of these Regulations were made under that section 76J, these expressions must be construed subject to those provisions.

- (c) in sub-paragraph (b), for “does” substitute “must”; and
 - (d) in sub-paragraph (c), for “satisfies” substitute “must satisfy”.
- (4) Omit regulation 4(3).

Amendment of Part 4 of the 2014 Regulations

4.—(1) Part 4 (monitoring of public water supplies) of the 2014 Regulations is amended in accordance with paragraphs (2) to (7).

- (2) For regulation 5 substitute—

“Monitoring

5.—(1) Scottish Water must, in relation to water supplied by it, ensure that it carries out regular monitoring of the quality of any such water intended for human consumption purposes to check that the water available to consumers meets the water quality standards.

(2) Where Scottish Water has reason to suspect that the water contains a micro-organism, parasite or substance (in number or concentration) which—

- (a) poses a potential danger to human health; and
- (b) is not one of the parameters in Table A, Table B or Table C,

Scottish Water must ensure that monitoring is carried out to establish whether, at the point of compliance, the micro-organism, parasite or substance poses such a potential danger.

(3) Where disinfection forms part of the preparation or distribution of the water, Scottish Water must take all measures necessary to ensure that—

- (a) the efficiency of the disinfection treatment applied is verified; and
- (b) any contamination from disinfection by-products is kept as low as possible without compromising the disinfection.

(4) Scottish Water must ensure that the monitoring is carried out so as to ensure that the measured values are representative of the quality of the water consumed throughout the year.”.

- (3) For regulation 6 substitute—

“Monitoring programmes

6.—(1) Scottish Water must prepare and implement a separate monitoring programme for each water supply zone (or part of a water supply zone) in so far as the water supply zone (or the part of it) relates to—

- (a) water introduced into, or supplied through or from, any part of the public water supply system, including water supplied by Scottish Water pursuant to an arrangement under section 6(1)(b) of the Water Services etc. (Scotland) Act 2005⁽¹⁰⁾; or
- (b) water supplied by Scottish Water by any other means, including from a tanker or in bottles or containers.

(2) Each monitoring programme prepared by Scottish Water must—

- (a) meet its obligations under regulation 5;
- (b) meet the minimum requirements in Parts A to D of schedule 1A;
- (c) accord with the monitoring requirements in Parts E and F of schedule 1A;

(10) 2005 asp 3.

- (d) ensure that the requirements of regulation 11, as read with schedule 2, and regulations 12 to 14 and 16 are met; and
- (e) comply with any other requirements specified in directions under regulation 15A.
- (3) Scottish Water must—
 - (a) determine the sampling points (for the purposes of each monitoring programme); and
 - (b) ensure that these sampling points meet the relevant requirements in—
 - (i) regulations 11 to 14 and 16; and
 - (ii) schedule 1A.
- (4) The first monitoring programme for each water supply zone (or part of a water supply zone) prepared under paragraph (1) must be approved by the Drinking Water Quality Regulator for Scotland.
- (5) Until a monitoring programme for a water supply zone (or part of a water supply zone) under paragraph (1) has been approved under paragraph (4), Scottish Water must ensure that a programme of monitoring is implemented within the water supply zone which—
 - (a) complies with the minimum requirements of paragraphs (2) and (3); and
 - (b) includes any additional monitoring that Scottish Water would be required to carry out (or cause to be carried out) under these Regulations, if these Regulations continued to have effect as they had effect immediately before 27th October 2017.
- (6) Scottish Water may modify a monitoring programme which has been approved under paragraph (4) to include additional monitoring for any parameter, micro-organism, parasite or substance, provided that the programme, as modified, complies with paragraphs (2) and (3).
- (7) Scottish Water may modify a monitoring programme which has been approved under paragraph (4) to reduce the level of monitoring required by the programme only—
 - (a) in accordance with conditions as are specified for those purposes in directions given under regulation 15A; or
 - (b) where no such conditions are specified in directions given under regulation 15A, with the consent of the Drinking Water Quality Regulator for Scotland.”.
- (4) Omit regulations 7 to 10.
- (5) After regulation 14 insert—

“Methods of analysis

- 14A.**—(1) Scottish Water must ensure that the method used for the analysis of a parameter in a sample of water pursuant to regulation 5—
- (a) complies with the specifications for the analysis of the parameter in schedule 3; or
 - (b) produces results which are at least as reliable as those produced by a method which complies with the specifications for the analysis of the parameter in schedule 3.
- (2) A method of analysis in relation to which paragraph (1)(b) applies may be used only if—
- (a) Scottish Water has provided all relevant information concerning the method and its equivalence to—
 - (i) the Drinking Water Quality Regulator for Scotland; and
 - (ii) the Scottish Ministers; and
 - (b) the Drinking Water Quality Regulator for Scotland—
 - (i) is satisfied that it can be demonstrated that the alternative method produces results which are at least as reliable as those produced by a method which

complies with the specifications for the analysis of the parameter in schedule 3; and

(ii) has confirmed this by notice to Scottish Water.”.

(6) In regulation 15, omit paragraphs (5) to (11).

(7) After regulation 15 insert—

“Directions and guidance

15A.—(1) The Drinking Water Quality Regulator for Scotland may give directions (whether general or specific) and guidance to Scottish Water (whether one or more) as to, or in relation to, the exercise of Scottish Water’s functions under this Part.

(2) Directions under paragraph (1) may include provision—

- (a) as to the cases and circumstances in which Scottish Water is, or is not, to exercise any of the powers conferred on Scottish Water by these Regulations;
- (b) the manner in which those powers are to be exercised; and
- (c) for any matter to which the directions relate to be determined, in such manner (if any) as the directions may specify, by a person other than Scottish Water.

(3) Scottish Water must—

- (a) comply with any such directions; and
- (b) have regard to any such guidance.”.

Amendment of Part 8 of the 2014 Regulations

5.—(1) Part 8 (treatment, risk assessment and contamination from pipes) of the 2014 Regulations is amended in accordance with paragraphs (2) and (3).

(2) In regulation 30—

(a) after paragraph (2) insert—

“(2A) Without prejudice to the generality of paragraph (2), each assessment carried out pursuant to that paragraph must—

(a) seek to establish whether—

- (i) the measures in place to control risks to human health throughout the water supply chain from the catchment area through abstraction, treatment and storage to distribution are working effectively; and
- (ii) water at each point of compliance meets the water quality standards;

(b) assess available information on the quality of water supplied to establish whether—

- (i) the water quality standards are being met; and
- (ii) the prescribed concentration and value for each parameter in Table C is not being exceeded at the point of monitoring for the parameter; and

(c) identify the most appropriate means of mitigating any risk to human health.

(2B) The assessment—

- (a) must be carried out in accordance with a method which is approved by the Drinking Water Quality Regulator for Scotland;
- (b) must be based on the general principles of risk assessment set out in relation to international standards including European standard EN 15975-2:2013 entitled

“Security of drinking water supply - Guidelines for risk and crisis management - Part 2: Risk management”(11); and

- (c) must take into account the results of monitoring carried out—
 - (i) under these Regulations; and
 - (ii) under section 8 (monitoring) of the Water Environment and Water Services (Scotland) Act 2003 in respect of bodies of water identified under section 6 of that Act (bodies of water used for the abstraction of drinking water).”;
 - (b) in paragraph (4), for “2015” substitute “2018”;
 - (c) in paragraph (5), for “1st January 2015” substitute “27th October 2017”;
 - (d) for paragraph (6) substitute—
 - “(6) Subject to paragraph (6A), Scottish Water must review and, where necessary, update each risk assessment at least every 5 years (or earlier if it considers that the existing risk assessment is inadequate for any reason).”;
 - (e) after paragraph (6) insert—
 - “(6A) Scottish Water must review and, where necessary, update the risk assessment as soon as possible in the event that it becomes aware of any—
 - (a) deterioration of the quality of the water;
 - (b) increase in the pollution of a body of water or other source used for the abstraction of the water; or
 - (c) modification to, or extension of, the combined system from which the water is supplied,which is relevant for the protection of human health and was not previously taken into account.”.
- (3) In regulation 31(1), for “or”, in the second place it occurs, substitute “and”.

Amendment of Part 14 of the 2014 Regulations

6. In Part 14 (local authority functions: public water supplies) of the 2014 Regulations, after regulation 47(1) insert—

“(1A) Regulation 14A applies to samples taken under paragraph (1) as it applies to samples taken for the purposes of Part 4, but with the following modifications:—

- (a) in paragraph (1)—
 - (i) for “Scottish Water” substitute “A local authority”; and
 - (ii) for “regulation 5” substitute “regulation 47(1)”;
- (b) in paragraph (2)(a), for “Scottish Water” substitute “the local authority”; and
- (c) in paragraph (2)(b), for “Scottish Water” substitute “the local authority”.”.

Insertion of new schedule 1A into 2014 Regulations

7. After schedule 1 (prescribed concentrations and values) of the 2014 Regulations insert the schedule contained in schedule 1 of these Regulations.

(11) This standard was approved by the European Committee for Standardization (CEN) on 5th July 2013. Under reference BS EN 15975-2:2013, it is published as a UK standard by the British Standards Institution (ISBN 978 0 580 84737 0).

Amendment of schedule 2 of the 2014 Regulations

- 8.** In schedule 2 (monitoring) of the 2014 Regulations—
- (a) for the heading of the schedule substitute “Monitoring: treatment works”;
 - (b) omit—
 - (i) Table 1;
 - (ii) Table 2 and the notes to that table; and
 - (iii) Table 3 and the notes to that table;
 - (c) in Table 4 omit—
 - (i) “Subject to check monitoring”;
 - (ii) “Subject to audit monitoring”; and
 - (d) in the Notes for Table 4—
 - (i) for “check monitoring” substitute “item 5”; and
 - (ii) for “audit monitoring” substitute “item 7”.

Omission of schedule 2A of the 2014 Regulations

- 9.** Omit schedule 2A (monitoring of radioactive substances) of the 2014 Regulations.

Substitution of schedule 3 of the 2014 Regulations

10. For schedule 3 (analysis: methods and capabilities) of the 2014 Regulations substitute the schedule contained in schedule 2 of these Regulations.

Omission of schedule 3A of the 2014 Regulations

11. Omit schedule 3A (monitoring for indicative dose and analytical performance characteristics) of the 2014 Regulations.

Consequential revocations

12. Regulations 14, 15, 18, 19 and paragraphs (a) and (b) of regulation 17 of the Private and Public Water Supplies (Miscellaneous Amendments) (Scotland) Regulations 2015(**12**) are revoked.

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