

## SCHEDULE 5

Regulations 3(1) and 15

### DEROGATIONS

#### Application

1.—(1) A water supplier who introduces water into, or uses, a private water supply system for the purposes of supplying water to the premises of another person may, in respect of the water supplied, make an application in writing to the enforcing authority (in relation to the water) for a derogation from a parametric value in Table B.

(2) In relation to a supply of water to premises in the area of an enforcing authority, a person who owns or occupies the premises may make an application in writing to the enforcing authority for a derogation from a parametric value in Table B.

(3) The application must include the things referred to in paragraph 3(3)(a) to (f).

#### Notification of decision

2.—(1) The enforcing authority may, by notice to the applicant, either—

- (a) refuse to grant a derogation; or
- (b) subject to paragraph 3, grant a derogation.

(2) The enforcing authority must, as soon as practicable after giving the notice to the applicant, send a copy of the notice to the Drinking Water Quality Regulator for Scotland.

#### Conditions

3.—(1) A derogation may only be granted—

- (a) if it does not pose a potential danger to human health;
- (b) the supply of water in question cannot be maintained by any other reasonable means; and
- (c) it is limited to as short a period as possible (up to a maximum period of 3 years).

(2) If the enforcing authority refuses to grant a derogation, it must give reasons in the notice.

(3) If the enforcing authority grants a derogation, it must specify in the notice—

- (a) the grounds for the derogation;
- (b) the parameter concerned, previous relevant monitoring results, and the maximum permissible value under the derogation;
- (c) the geographical area, the quantity of water supplied each day, the population concerned and whether or not any relevant food-production undertaking would be affected;
- (d) an appropriate monitoring scheme, with an increased monitoring frequency where necessary;
- (e) a summary of the plan for the necessary remedial action, including a timetable for the work and an estimate of the cost and provisions for reviewing; and
- (f) the duration of the derogation.

(4) Before the end of the duration of a derogation (granted under this regulation), the enforcing authority must carry out a review to determine whether sufficient progress has been made (in relation to the plan and timetable for the necessary remedial action).

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## **Second derogation**

**4.—**(1) The enforcing authority may, if appropriate, grant a further derogation (“second derogation”) from a parametric value of up to 3 years in respect of water supplied to premises if—

- (a) a derogation from the parametric value (“first derogation”) was previously granted; and
- (b) the first derogation was in respect of water supplied to the same premises.

(2) Paragraphs 1 to 3 apply to a second derogation as they apply to a first derogation.

## **Supplementary**

**5.—**(1) If the enforcing authority considers that a failure to meet a parametric value was trivial, and if action taken in accordance with regulation 21(c) is sufficient to remedy the problem within 30 days, paragraph 3(3) does not apply and the enforcing authority must instead specify in the notice only—

- (a) the maximum permissible value under the derogation; and
- (b) the time allowed to remedy the problem.

(2) Sub-paragraph (1) does not apply if a failure to comply with a parametric value for a given water supply has occurred on more than 30 days on aggregate during the previous 12 months.

## **Notification**

**6.** Where a derogation is granted to an applicant, the applicant must ensure—

- (a) that the population affected by any such derogation is promptly informed in an appropriate manner of the derogation and of the conditions governing it; and
- (b) where necessary, that advice is given to particular population groups for which the derogation could present a special risk.