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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2014 No.**

**The Public Water Supplies (Scotland) Regulations 2014**

**PART 9**

**CONTROLS ON SUBSTANCES, PRODUCTS AND PROCESSES**

**Application and introduction of substances and products**

**33.**—(1) Subject to paragraph (2), Scottish Water must not apply any substance or product to, or introduce any substance or product into, water which is to be supplied by it for human consumption purposes unless one of the requirements of paragraph (3) is satisfied.

(2) A substance or product which, at the time of its application or introduction—

- (a) bears an appropriate CE marking in accordance with Regulation (EU) No 305/2011 of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products and repealing Council [Directive 89/106/EEC](#)(1); or
- (b) conforms to an appropriate British Standard or some other appropriate standard of an EEA state(2) or Turkey(3) which provides an equivalent level of protection and performance,

may be applied or introduced, notwithstanding that none of the requirements of paragraph (3) is satisfied; but only if its application or introduction complies with—

- (i) such conditions of use restricting the dosing concentration as for the time being apply in relation to that substance or product pursuant to a direction of the Scottish Ministers given to Scottish Water (in exercise of powers under section 56(3) of the Water Industry (Scotland) Act 2002(4)); and
- (ii) such ‘other requirements’ (within the meaning of [Directive 98/34/EC](#) of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services(5) as amended from time to time), in relation to such substances and products as have been communicated to the Commission in the form of a draft technical regulation in accordance with Article 8 of that Directive and whose adoption by a member State(6) has also been communicated to the Commission.

(3) The requirements of this paragraph are—

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(1) OJ L 88, 4.4.2011, p.5.  
(2) “EEA state” has the meaning given in Schedule 1 to the Interpretation Act 1978 (c.30). This definition was inserted by the Legislative and Regulatory Reform Act 2006 (c.51), section 26(1).  
(3) Decision No 1/95 of the EC-Turkey Association Council of 22nd December 1995 on implementing the final phase of the Customs Union (OJ L 35, 13.2.96, p. 1) provide for the removal of measures having an effect equivalent to quantitative restrictions between the European Union and Turkey. See, in particular, Articles 5 to 7 (as read with Article 66).  
(4) [2002 asp 3](#).  
(5) OJ L 204, 21.7.1998, p.37, as amended by [Directive 98/48/EC](#) (OJ L 217, 5.8.1998, p.18), Council [Directive 2006/96/EC](#) (OJ L 363, 20.12.2006, p.81) and Regulation (EU) No 1025/2012 (OJ L 316, 14.11.2012, p.12).  
(6) By virtue of section 5 and section 23(1) of, and Schedule 1 to, the Interpretation Act 1978 (c.30), “member” in the expression “member State” refers to membership of the European Union.

- (a) that the Scottish Ministers have for the time being approved the application or introduction of that substance or product and it is applied or introduced in accordance with any conditions attaching to that approval;
  - (b) that the Scottish Ministers are satisfied that the substance or product either alone or in combination with any other substance or product in the water is unlikely to affect adversely the quality of the water supplied; or
  - (c) that the Scottish Ministers are satisfied that the substance or product is to be applied or introduced solely for the purposes of testing or research, and Scottish Water has given to the Scottish Ministers not less than 3 months' notice of their intention to apply or introduce the substance or product solely for those purposes.
- (4) An application for such an approval as is mentioned in paragraph (3)(a) may be made by any person ("the applicant").
- (5) If the Scottish Ministers decide to issue an approval under paragraph (3)(a), they may include in the approval such conditions as they consider appropriate and, subject to paragraph (9), may at any time revoke or vary any approval they have previously given.
- (6) Where a substance or a product is applied or introduced in any case in which the requirement mentioned in paragraph (3)(c) is satisfied, its application or introduction must be discontinued within 12 months of the date on which it was first applied or introduced or, if the Scottish Ministers so direct (in exercise of powers under section 56(3) of the Water Industry (Scotland) Act 2002), within such other period (whether longer or shorter) as may be specified in the direction.
- (7) The Scottish Ministers may, by notice given to Scottish Water, prohibit Scottish Water from applying to, or introducing into, water intended to be supplied by it for human consumption purposes any substance or product which it would otherwise be authorised to apply or introduce by virtue of—
- (a) paragraph (1) as read with sub-paragraph (b) or (c) of paragraph (3); or
  - (b) paragraph (2).
- (8) A prohibition under paragraph (7) may be without limitation as to time or for such period as is specified in the notice.
- (9) The Scottish Ministers may—
- (a) revoke any approval given for the purposes of paragraph (3)(a) by notice given to—
    - (i) the applicant for that approval;
    - (ii) the Drinking Water Quality Regulator for Scotland; and
    - (iii) Scottish Water (where it is not the applicant);
  - (b) modify any such approval by including conditions or varying existing conditions by notice given to the persons referred to in sub-paragraph (a); and
  - (c) give notice in accordance with paragraph (7),
- but, unless they are satisfied that it is necessary to do so in the interests of public health without notice, they must not do any of those things without giving such persons as the Scottish Ministers consider are likely to be affected by the revocation or modification of the approval, or by the issue of the notice, at least 6 months' notice in writing (or in electronic form) of their intention.
- (10) Where the Scottish Ministers give notice under paragraph (7) or (9)(a) or (b), they must also give notice as soon as possible to such persons as the Scottish Ministers consider are likely to be affected (whether directly or indirectly) by the giving of that notice.
- (11) At least once in each year, the Scottish Ministers must publish up-to-date lists of—
- (a) each application or introduction of a substance and product which is for the time being approved by them pursuant to paragraph (3)(a) (taking account of any modifications), together with details of any conditions which for the time being attach to that approval; and

- (b) each application or introduction of a substance and product which is for the time being prohibited by virtue of paragraph (7) (notwithstanding paragraph (2), (3)(b) or (3)(c)).
- (12) The Scottish Ministers may—
  - (a) by notice given to the applicant for an approval (as is mentioned in paragraph (3)(a)), require the applicant to pay them a charge which reflects the administrative expenses incurred or likely to be incurred by the Scottish Ministers, or by others on their behalf, in connection with the application; and
  - (b) in determining the amount of any such charge, adopt such methods and principles for its calculation as appear to them to be appropriate.

### Use of processes

- 34.**—(1) The Scottish Ministers may by notice given to Scottish Water—
  - (a) require it to make an application to them for approval of the use of any process; and
  - (b) prohibit it (for such period as may be specified in the notice) from using any such process in connection with the supply by it of water for human consumption purposes.
- (2) The Scottish Ministers may by notice given to Scottish Water—
  - (a) refuse or approve the application; and
  - (b) if they approve the application, impose such conditions as they think fit.
- (3) The Scottish Ministers may by notice given to Scottish Water—
  - (a) revoke any such approval; or
  - (b) modify or revoke any condition imposed.
- (4) The Scottish Ministers must give Scottish Water at least 6 months' notice in writing (or in electronic form) of their intention to—
  - (a) revoke any such approval;
  - (b) modify a condition; or
  - (c) prohibit Scottish Water from using a process.
- (5) Paragraph (4) does not apply in so far as the Scottish Ministers consider that the immediate revocation, modification or prohibition is necessary in the interests of public health.
- (6) At least once in each year, the Scottish Ministers must publish up-to-date lists of—
  - (a) each use of a process which is for the time being approved by them pursuant to paragraphs (1)(a) and (2), together with details of any conditions which for the time being attach to that approval; and
  - (b) each use of any such process which is (despite its approval under paragraphs (1)(a) and (2)) for the time being prohibited from being used in connection with the supply by Scottish Water of water for human consumption purposes by virtue of a notice given under paragraph (1)(b), together with details of any period specified in that notice.