
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 282

**The Water Intended for Human Consumption
(Private Supplies) (Scotland) Regulations 2017**

PART 1

GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 and come into force on 27th October 2017.

(2) These Regulations extend to Scotland only.

Application

2.—(1) Subject to paragraphs (2) and (3), these Regulations, except Part 10 and schedule 10, do not apply 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)(licence authorisation) of the Water Services etc. (Scotland) Act 2005⁽¹⁾;
- (b) water supplied by Scottish Water by any other means, including from a tanker or in bottles or containers;
- (c) water supplied with the help of services provided by Scottish Water, as described in section 30 (maximum charges for services provided with help of Scottish Water) of the Water Industry (Scotland) Act 2002⁽²⁾;
- (d) water which is exempt from the provisions of these Regulations by virtue of paragraph (4);
- (e) 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;
- (f) water which is a medicinal product within the meaning of [Directive 2001/83/EC](#) of the European Parliament and of the Council on the Community code relating to medicinal products for human use⁽³⁾;
- (g) water used exclusively for the purposes of washing a crop after it has been harvested where the quality of the water has no influence, either directly or indirectly, on the health of any person consuming the crop, or food or drink derived from the crop; or

(1) [2005 asp 3](#).

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

(3) OJ L 311, 28.11.2001, p.67, last amended by [Directive 2012/26/EU](#) of the European Parliament and of the Council (OJ L 299, 27.10.2012, p.1).

- (h) water used during the distillation of spirits which is used—
 - (i) exclusively in the mashing process;
 - (ii) exclusively for washing plant; or
 - (iii) in the mashing process and for washing plant, but for no other purposes,
 where the quality of the water has no influence, either directly or indirectly, on the health of any person consuming the spirits, or food or drink derived from the spirits.

(2) Except in a case where these Regulations do not apply in relation to water by virtue of paragraph (1)(a) to (f), the following provisions apply in relation to water used for any purpose specified in paragraph (1)(g) or (h):—

- (a) regulations 5 to 7 and 9; and
- (b) paragraphs 1(a) and (c), 2(a) to (c) and (e) to (g) and 4 of schedule 1.

(3) The parameters in Table C apply only—

- (a) for the purposes of monitoring pursuant to regulations 18 and 19; and
- (b) for the fulfilment of obligations imposed by regulations 21 to 23.

(4) Water supplied from every part of a private water supply system which (either or both)—

- (a) provides (in total) less than 10 m³ of water a day (as an average); or
- (b) serves (in total) fewer than 50 persons,

is exempt from the provisions of these Regulations, unless any of the water is supplied (either or both)—

- (a) as part of a commercial or public activity; or
- (b) to any premises used for a commercial or public activity.

(5) Where water is exempt from the provisions of these Regulations under paragraph (4), the enforcing authority in relation to the water must ensure that any person who may reasonably be expected to consume water from the supply is—

- (a) informed that water from the supply is exempt from the provisions of these Regulations;
- (b) informed of any action that can be taken to protect human health from the adverse effects resulting from any contamination of such water; and
- (c) promptly given appropriate advice, if a potential danger to human health arising out of the quality of such water is apparent to the enforcing authority.

Interpretation

3.—(1) In these Regulations—

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

“abstracted” includes, as the case may be, collected or otherwise obtained, and “abstraction” is to be construed accordingly;

“the appropriate register” means the register which is required to be kept by the enforcing authority for the area in which the premises is situated;

“area”, in relation to a local authority, means the local government area (within the meaning of the Local Government etc. (Scotland) Act 1994(5)) for which the local authority is constituted;

(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.

(5) 1994 c.39.

“body of water” has the same meaning as in section 28(1) of the Water Environment and Water Services (Scotland) Act 2003(6);

“building” includes tents, vans, sheds and similar structures, and any facility on land—

(a) for a person to have access to a supply of water in pipes; or

(b) which provides a person with a supply of water in pipes;

“by notice” means by notice given in writing (whether by electronic means or otherwise);

“disinfection” means a process of water treatment to remove or render harmless to human health every pathogenic micro-organism and pathogenic parasite that would otherwise be present in the water; and “disinfect” and “disinfected” are to be construed accordingly;

“distribution network”—

(a) in a case where a private water supply system distributes water to two or more buildings, means the parts of the supply system which distribute the water from its source to each point at which those parts of the supply system connect to associated pipework, fittings or appliances which distribute the water to, or throughout, an individual building; and

(b) in a case where a private water supply system distributes water to one building only, means the parts of the supply system which distribute the water from its source to each point at which those parts of the supply system connect to associated pipework, fittings or appliances which distribute the water throughout the building in question;

“domestic distribution system” means the parts of a private water supply system which are installed between the taps that are normally used for human consumption of water and the distribution network, but only in so far as they are not the responsibility of a water supplier;

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

“electronic means” means electronic equipment for processing (including digital compression) and storage of data which is transmitted, conveyed and received by wire, radio, optical or other electromagnetic means;

“emergency notice” means a notice under regulation 32(2);

“enforcement notice” means a notice under paragraph 1(1) of schedule 7;

“enforcing authority”, in relation to water, means a local authority for an area within which is a point of compliance in relation to the water; but the local authority is an enforcing authority only in relation to water which is, or is to be, supplied to or used at the point of compliance;

“Health Board” means a Health Board constituted by order under section 2(1)(a) of the National Health Service (Scotland) Act 1978(7);

“in writing” means any expression consisting of words or figures which can be read, reproduced and subsequently communicated, including any such expression which is transmitted and stored by electronic means;

“indicative dose” means the committed effective dose for one year of ingestion resulting from all radionuclides whose presence has been detected in a supply of water, of natural and artificial origin, but excluding tritium, potassium-40, radon and short-lived radon decay products;

“information notice” means a notice under regulation 28(1);

(6) 2003 asp 3.

(7) 1978 c.29. Section 2(1) was amended by paragraph 1 of schedule 7 of the Health and Social Services and Social Security Adjudications Act 1983 (c.41) and renumbered as section 2(1)(a) by section 28(a)(i) of the National Health Service and Community Care Act 1990 (c.19). Section 2(1)(a) was amended by paragraph 1(2)(a) of schedule 1 of the National Health Service Reform (Scotland) Act 2004 (asp 7), and by paragraph 2(2) of schedule 2 of the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13).

“limit of detection” means the output signal or concentration value above which it can be affirmed, with a stated level of confidence, that a sample is different from a blank sample containing no determinand of interest;

“limit of quantification” means a stated multiple of the limit of detection at a concentration of the determinand that can reasonably be determined with an acceptable level of accuracy and precision (which can be calculated using an appropriate standard or sample, and may be obtained from the lowest calibration point on the calibration curve, excluding the blank);

“local authority”, in relation to an area, means the council constituted under section 2 of the Local Government etc. (Scotland) Act 1994⁽⁸⁾ for that area;

“owns” means owns whether jointly or individually, and cognate expressions are to be construed accordingly;

“parameter” means a parameter referred to in the first column of Table A, Table B or Table C, except in regulation 20 and schedule 4 where it means a parameter referred to in paragraph 2 of Part A of schedule 4 or in the first column of Table 1, Table 2 or Table 3 in that schedule;

“parametric value”, in relation to a parameter, means the parametric value in the second column of Table A, Table B or Table C which corresponds to the parameter, or the parametric value which otherwise applies by virtue of a derogation granted under schedule 5;

“person” means a person other than—

- (a) Scottish Water; or
- (b) any person acting on behalf of Scottish Water or under its authority;

“point of compliance”, in relation to water, except where otherwise specified⁽⁹⁾ means—

- (a) in the case of water supplied from part of a private water supply system, the point within premises at which it emerges from a tap normally used for human consumption of water;
- (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 (which is not intended for sale for drinking by humans), 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;

“premises”, except where otherwise defined, includes land⁽¹⁰⁾;

“premises where water is supplied to the public” includes schools, hospitals and restaurants;

“private water supply system” and “supply system” means a water supply system, excluding—

- (a) a water supply system, any part of which is part of the public water supply system; and
- (b) any other water supply system used to supply water with the help of services provided by Scottish Water, as described in section 30 of the Water Industry (Scotland) Act 2002⁽¹¹⁾;

“public water supply system” has the same meaning as it has in section 28(1) of the Water Services etc. (Scotland) Act 2005⁽¹²⁾;

“register” means a register which is required to be maintained under regulation 5;

“relevant person” means—

- (a) in relation to a supply of water in pipes to premises, a person who—

⁽⁸⁾ 1994 c.39.

⁽⁹⁾ See Note 5 to Table B in schedule 2.

⁽¹⁰⁾ By virtue of section 25 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10), land includes buildings and other structures, land covered with water, and any right or interest in or over land.

⁽¹¹⁾ 2002 asp 3. Section 30 was amended by section 21(2) of the Water Services etc. (Scotland) Act 2005 (asp 3).

⁽¹²⁾ 2005 asp 3.

- (i) owns any part of the private water supply system; or
- (ii) owns or occupies—
 - (aa) the premises;
 - (bb) land from which any part of the water is abstracted (from the water environment); or
 - (cc) land in, on or over which any part of the private water supply system is installed;
- (iii) exercises powers of management or control in relation to—
 - (aa) the premises;
 - (bb) land from which any part of the water is abstracted (from the water environment);
 - (cc) land in, on or over which any part of the private water supply system is installed;
 - (dd) a body of water or other source from which any part of the water is abstracted;
 - (ee) the supply of water in pipes; or
 - (ff) the private water supply system; or
- (iv) is a water supplier;
- (b) in relation to a supply of water from a tanker, a person who supplies the water from the tanker or exercises powers of management or control in relation to the supply of water from the tanker; and
- (c) in relation to a supply of water in bottles or containers, a person who puts the water into the bottles or containers or exercises powers of management or control in relation to the supply of water in bottles or containers;

“remediation notice” means a notice under paragraph 1(1) of schedule 6;

“risk assessment” means the most recent risk assessment carried out under regulation 10 (as updated, where applicable, by an enforcing authority under regulation 11, 12(3) or 13(3));

“Scottish Water” means the body corporate established by section 20(1) of the Water Industry (Scotland) Act 2002;

“source” means source of water;

“supply of water” includes a supply of water—

- (a) from a private water supply system;
- (b) from a tanker; or
- (c) in bottles or containers;

“supply of water in pipes” means a supply of water through a private water supply system;

“supply zone” means a geographically defined area within which water comes from one or more sources and water quality may be considered as being approximately uniform;

“Table A” means the table in Part A of schedule 2;

“Table B” means the table in Part B of schedule 2;

“Table C” means the table in Part C of schedule 2;

“uncertainty of measurement” means a non-negative parameter characterizing the dispersion of the quantity values being attributed to a measurand, based on the information used;

“water” means water intended for human consumption, except where—

- (a) it is used in the meaning of “water intended for human consumption”;
- (b) forms part of an expression which is separately defined by these Regulations; or
- (c) the context otherwise requires;

“water environment” has the same meaning as in section 3(2) of the Water Environment and Water Services (Scotland) Act 2003⁽¹³⁾;

“water intended for human consumption” means—

- (a) all water, either in its original state or after treatment, intended for drinking, cooking, food preparation or other domestic purposes, regardless of its origin and whether it is supplied from a private water supply system, a tanker, or in bottles or containers; and
- (b) all water intended to be used in any food-production undertaking for the manufacture, processing, preservation or marketing of products or substances 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⁽¹⁴⁾, the competent authority⁽¹⁵⁾ is satisfied that the quality of water cannot affect the wholesomeness of the product or substance in its finished form;

“water quality standards” means requirements of regulation 14, as modified by any derogation granted under schedule 5 in respect of the water to which the derogation applies;

“water supplier” means a person who introduces water into, or uses, a private water supply system for the purposes of supplying, as part of a commercial or public activity, water to the premises of another person;

“water supply system” means all associated pipework, fittings, appliances (including for abstraction, storage and treatment) and other similar infrastructure used, or intended to be used, to supply water in pipes to one or more premises, including pipework, fittings, appliances installed between—

- (a) the point or points at which the water is abstracted from the water environment; and
- (b) the point or points at which the water emerges from taps (within each premises) that are normally used for human consumption of the water; and

“year” means calendar year.

(2) For the purposes of the definition of “domestic distribution system” in paragraph (1) (and without prejudice to other circumstances in which a water supplier may be responsible), a water supplier is responsible for the parts of a private water supply system which are—

- (a) vested in the water supplier;
- (b) managed or controlled by the water supplier; or
- (c) maintained by the water supplier.

Supply zones

4.—(1) The Drinking Water Quality Regulator for Scotland may define areas that are to be supply zones for the purposes of these Regulations.

(2) Where an area is defined as a supply zone under paragraph (1) or redefined under paragraph (3)

⁽¹³⁾ 2003 asp 3.

⁽¹⁴⁾ 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).

⁽¹⁵⁾ 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*.

- (a) the Drinking Water Quality Regulator for Scotland must, by notice to each relevant enforcing authority, identify—
 - (i) the area defined or redefined as a supply zone; and
 - (ii) each supply of water within the supply zone which comes from one or more sources and in relation to which water quality is considered to be approximately uniform; and
- (b) each relevant enforcing authority must treat the area as a supply zone.
- (3) The Drinking Water Quality Regulator for Scotland may redefine the area of a supply zone.
- (4) The Drinking Water Quality Regulator for Scotland may, by further notice to an enforcing authority, modify a notice given to the enforcing authority under paragraph (2).
- (5) In paragraph (2), “relevant enforcing authority” means, in relation to a supply zone defined under paragraph (1) or, as the case may be, redefined under paragraph (3), an enforcing authority for an area containing any part of (either or both)—
 - (a) the supply zone; or
 - (b) a supply of water which comes from one or more sources within the supply zone.

PART 2

REGISTER OF SUPPLY SYSTEMS, ETC.

Register of supply systems, etc.

- 5. An enforcing authority must prepare and maintain a register of information in relation to—
 - (a) each private water supply system (including any modifications of, or extensions to, the supply system) used, or intended to be used, to supply water to premises in its area; and
 - (b) the quality of water introduced into, and supplied through and from, the supply system.

Contents of the register

6.—(1) The enforcing authority must ensure that the register includes a record of the information specified in schedule 1, by the corresponding dates specified in that schedule.

- (2) Information relating to the same supply system, including information about—
 - (a) the relevant supply zone;
 - (b) the quality of water introduced into, and supplied through and from, the system; and
 - (c) premises served by the system,

must be kept together in the same part of the register.

Review of contents

7. The enforcing authority must, by 31st March in each year, review the contents of each part of the register to ensure that it includes all the information required, and update it as required.

Duty to provide information

8. Where water is being, or is intended to be, supplied to premises through any part of a supply system which is not recorded in the register (“the unrecorded part”), each person who owns the premises must ensure that the enforcing authority (“the registering authority”) for the area in which

the premises is situated is, or has been, provided with all the information relating to the unrecorded part which the registering authority needs in order to comply with its duties under this Part.

Access to information

9.—(1) An enforcing authority must ensure that information about water quality is available for inspection by any person at all reasonable times.

(2) The enforcing authority must provide to—

- (a) the Drinking Water Quality Regulator for Scotland;
- (b) any other enforcing authority;
- (c) any Health Board;
- (d) the Scottish Environment Protection Agency; and
- (e) the Scottish Ministers,

details of, or copies of, such information included in the register as they may reasonably request.

(3) In paragraph (1), “information about water quality” means the information specified in paragraphs 3 and 4 of schedule 1 in so far as it—

- (a) is contained in the register maintained by the enforcing authority under this Part; and
- (b) relates to the quality of water supplied into, through or from a supply system (including any assessment of risks to human health and any remedial action taken or required).

PART 3

RISK ASSESSMENT OF WATER SUPPLIES

Risk assessment of water supplies

10.—(1) An enforcing authority must carry out a risk assessment in relation to water introduced into, and supplied through and from, each private water supply system to premises in its area so as to establish if there is any risk that the water could pose a potential danger to human health.

(2) Each initial risk assessment must be completed before 1st January 2022.

(3) Without prejudice to the generality of paragraph (1), the assessment 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; and
- (b) assess available information on the quality of water supplied to establish whether—
 - (i) the water quality standards are being met; and
 - (ii) the parametric values in Table C are not being exceeded; and
- (c) identify the most appropriate means of mitigating any risk to human health.

(4) 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"(16); 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).
- (5) For each assessment, the enforcing authority must ensure that—
 - (a) the following is made available to any person who requests it (“the information”):—
 - (i) information showing that a risk assessment has been carried out; and
 - (ii) a summary of the results of the risk assessment; and
 - (b) the information is notified to the owner and occupier of each premises supplied with water from the private water supply system to which the risk assessment relates.

Review of risk assessments

11.—(1) Subject to paragraph (2), where an enforcing authority has carried out a risk assessment, it must review and, where necessary, update the risk assessment at least every 5 years (or earlier if it considers that the existing risk assessment is inadequate for any reason).

(2) The enforcing authority 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 supply system from which the water is supplied, which is relevant for the protection of human health and was not previously taken into account.

Duties in relation to use of unused system

12.—(1) If part of a private water supply system has not been used to provide a supply of water in pipes (“the unused part”), no person may use the unused part to provide a supply of water to premises (“the intended use”) unless—

- (a) the unused part is recorded in the appropriate register;
- (b) a risk assessment has been carried out in relation to the supply system by the enforcing authority for the area in which the premises is situated;
- (c) the risk assessment—
 - (i) takes account of the intended use of the unused part and was carried out within the period of 8 weeks preceding the intended use of the unused part; or
 - (ii) has been reviewed and updated to take account of the intended use of the unused part within the period of 8 weeks preceding the intended use of the unused part; and
- (d) the enforcing authority has confirmed, by notice to the person, that it is satisfied that—
 - (i) the risk assessment does not identify any risk that the intended use of the unused part could constitute a potential danger to human health; and

(16) 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).

(ii) the unused part may be used for the intended use.

(2) If the risk assessment does not take account of the intended use of the unused part, a person who wishes to use the unused part may request, in writing, that the enforcing authority review and update the risk assessment to take account of the intended use of the unused part.

(3) On receipt of a request under paragraph (2) and the payment of any fee charged under these Regulations, the enforcing authority must within a further period of 8 weeks beginning with the day the request was received or the day the payment was made (whichever is the later)—

- (a) review and, where necessary, update the risk assessment to take account of the intended use of the unused part; and
- (b) confirm, by notice to the person, whether it is satisfied as to the matters in paragraph (1)(d)(i) and (ii).

Duties in relation to use of disused system

13.—(1) If part of a private water supply system has been used to provide a supply of water in pipes but has not been used for that purpose in the preceding 12 months (“the disused part”), no person may use the disused part to provide of a supply of water to premises (“the intended use”) unless—

- (a) the disused part is recorded in the appropriate register;
- (b) a risk assessment has been carried out in relation to the supply system by the enforcing authority for the area in which the premises is situated;
- (c) the risk assessment—
 - (i) takes account of the intended use of the disused part and was carried out within the period of 8 weeks preceding the intended use of the disused part; or
 - (ii) has been reviewed and updated to take account of the intended use of disused part within the period of 8 weeks preceding the intended use of the disused part; and
- (d) the enforcing authority has confirmed, by notice to the person, that it is satisfied that—
 - (i) the risk assessment does not identify any risk that the intended use of the disused part could constitute a potential danger to human health; and
 - (ii) the disused part may be used for the intended use.

(2) If the risk assessment does not take account of the intended use of the disused part, a person who wishes to use the disused part (“the person”) may request that the enforcing authority review and update the risk assessment to take account of the intended use of the disused part.

(3) On receipt of a request under paragraph (2) and the payment of any fee charged under these Regulations, the enforcing authority must within a further period of 8 weeks beginning with the day the request was received or the day the payment was made (whichever is the later)—

- (a) review and, where necessary, update the risk assessment to take account of the intended use of the disused part; and
- (b) confirm, by notice to the person, whether it is satisfied as to the matters in paragraph (1)(d)(i) and (ii).

PART 4

WATER QUALITY STANDARDS AND DUTIES

Water quality standards

- 14.—(1) At each point of compliance, water must not contain—
- (a) a micro-organism, parasite or substance which (in number or concentration) poses a potential danger to human health; or
 - (b) a parameter which exceeds its parametric value in Table A or Table B.
- (2) At the point of compliance, the sum of the following must not exceed 1 mg/l:—
- (a) nitrate (in mg/l) in the water, divided by 50; plus
 - (b) nitrite (in mg/l) in the water, divided by 3.

Derogations from the water quality standards

15. Schedule 5 makes provision for derogations.

Duty of care: supplies of water

16. A person, in relation to a supply of water, must not take any action which has the effect of allowing any deterioration of the quality of the water (in so far as that is relevant for the protection of human health).

Duty of care: substances and materials

17. A person who, in relation to a supply of water, modifies any part of a private water supply system or introduces any substance to the water supplied (for purposes in connection with the distribution or preparation of the water) must ensure that no substance or material used or introduced for those purposes (or any impurity associated with any such substance or material)—

- (a) remains in the water (including, in particular, at the point of compliance) in concentrations higher than is necessary for the purpose of their use; or
- (b) reduces the protection of human health otherwise provided for by these Regulations.

PART 5

MONITORING AND ANALYSIS

Monitoring

18.—(1) An enforcing authority must ensure that regular monitoring of the quality of water in its area is carried out to check that water available to consumers meets the water quality standards.

(2) Where the enforcing authority 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,

the enforcing authority 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, the enforcing authority 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) The enforcing authority 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.

Monitoring programmes

19.—(1) An enforcing authority must prepare and implement a monitoring programme for each supply zone (or part of a supply zone) in so far as the supply zone (or the part of it) relates to—

- (a) water introduced into, and supplied through and from, a private water supply system to premises within the area of the enforcing authority; or
- (b) water produced within the supply zone (or the part of it) which is supplied from a tanker or in bottles or containers to a point of compliance within the authority's area.

(2) Each monitoring programme prepared by the enforcing authority must—

- (a) meet its obligations under regulation 18;
- (b) meet the minimum requirements in Parts A to D of schedule 3;
- (c) accord with the monitoring requirements in Parts E and F of schedule 3; and
- (d) comply with such other requirements as may be specified in directions given to the enforcing authority under regulation 36(1).

(3) The enforcing authority 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 schedule 3.

Methods of analysis

20.—(1) Each enforcing authority must ensure that the method used for the analysis of a parameter in a sample of water pursuant to regulation 18—

- (a) complies with the specifications for the analysis of the parameter in schedule 4; 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 4.

(2) A method of analysis in relation to which paragraph (1)(b) applies may be used only if—

- (a) the enforcing authority 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 4; and
 - (ii) has confirmed this by notice to the enforcing authority.

PART 6

INVESTIGATION AND REMEDIAL ACTION

Investigation and remedial action

- 21.** Each enforcing authority, in relation to a supply of water, must ensure that—
- (a) a failure of the water to meet a parametric value in Table A, Table B or Table C is immediately investigated in order to identify the cause, and assessed to determine whether the failure poses a risk to human health which requires remedial action;
 - (b) if, for any reason, the supply of water poses a potential danger to human health—
 - (i) remedial action is taken as is necessary to protect human health (including, where appropriate, action to prohibit the supply of water or to restrict its use); and
 - (ii) consumers are informed promptly of the danger and given the necessary advice; and
 - (c) subject to regulation 22, remedial action is taken as soon as possible (after any such failure) to restore the quality of the water so that it meets the parametric value, with priority given to enforcement action having regard among other things to the extent to which the parametric value was exceeded and the potential danger to human health.

Remedial action to restore water quality: particular cases

22.—(1) In the case of a failure to meet a parametric value in Table C, the duty to take action under regulation 21(c) applies only in so far as action is necessary to protect human health.

(2) The duty of an enforcing authority to take remedial action under regulation 21(c) does not apply in relation to a failure referred to in regulation 21(a) (other than a failure to meet a parametric value for radon, tritium or indicative dose) in a case where it can be established by the enforcing authority that the failure was due to a domestic distribution system or its maintenance.

(3) Where paragraph (2) applies and there is a risk that water supplied through or from any part of the domestic distribution system will, at the point of compliance, contain a parameter which exceeds a parametric value in Table A, Table B or Table C, the enforcing authority must ensure—

- (a) that appropriate measures are taken to reduce or eliminate the risk, such as—
 - (i) advising the person who is responsible for the domestic distribution system of any possible remedial action that the person could take to reduce or eliminate the risk; or
 - (ii) treating the water before it is supplied to the domestic distribution system so that the parametric value in question is not exceeded at the point of compliance; and
- (b) that each consumer of the water is—
 - (i) informed of the risk; and
 - (ii) advised of any possible additional remedial action that they should take.

Remedial action to restore water quality: notification of risk, etc.

23.—(1) The enforcing authority must ensure that, where remedial action is taken in relation to water pursuant to regulation 21(c), consumers of the water and any other person affected, are—

- (a) notified of the risk (if any) to human health and the remedial action taken; and
- (b) advised of any additional precautionary measures that may be needed for the protection of human health.

(2) The duty to notify consumers in paragraph (1) does not apply if the enforcing authority confirms, by notice to the Drinking Water Quality Regulator for Scotland, that the remedial action

was taken in response to a failure to meet a parametric value (other than a failure to meet a parametric value for radon, tritium or indicative dose) which it considers to be trivial.

PART 7

INFORMATION AND REPORTING

Duty to provide information to consumers

24.—(1) A person who owns premises served with a supply of water must ensure that adequate and up-to-date information on the quality of the water is available to the consumers of the water.

(2) If the premises are used for the purposes of a commercial or public activity, the owner must ensure that a notice is prominently displayed in a location which will bring the information contained in the notice to the attention of any person using the premises.

(3) The notice must include such information as the enforcing authority may, by notice to the owner of the premises in question, require about the source, quality or treatment of the water.

Information for certain public authorities

25. By 31st March in each year, an enforcing authority must provide to the following persons adequate and up-to-date information on the quality of the water available to the consumers of the water in its area for the preceding year:—

- (a) the Drinking Water Quality Regulator for Scotland;
- (b) any Health Board;
- (c) the Scottish Environment Protection Agency; and
- (d) the Scottish Ministers.

Reports about water quality

26.—(1) The Drinking Water Quality Regulator for Scotland must publish a report every 3 years on the quality of water in Scotland with the objective of informing consumers of the water.

(2) Each report must—

- (a) include, as a minimum, every supply of water—
 - (i) exceeding 1,000 m³ of water a day (as an average); or
 - (ii) serving more than 5,000 persons;
- (b) cover a period of 3 years (“the reporting period”); and
- (c) be published within one year of the end of the reporting period.

(3) The first report must cover the period of 3 years beginning with 1st January 2017.

PART 8

ENFORCEMENT

Exercise of enforcement powers

27.—(1) An enforcing authority must, in relation to each supply of water to a point of compliance in its area, monitor compliance with and enforce the provisions of these Regulations.

(2) Pursuant to paragraph (1), the enforcing authority must exercise its functions under—

- (a) these Regulations; and
- (b) so far as applicable, under any other enactment,

so as to secure compliance with and enforce the provisions of these Regulations.

(3) An enforcing authority must, when deciding what action is necessary for the purposes of regulation 21(b), bear in mind the risks to human health which would be caused by—

- (a) an interruption of the supply; or
- (b) a restriction in the use of water.

Power to obtain information

28.—(1) An enforcing authority may serve on a person a notice requiring the person—

- (a) to provide the enforcing authority, at a time and place and in the form and manner specified in the notice, with—
 - (i) information relating to a supply of water (including the monitoring, treatment and quality of the water);
 - (ii) information relating to a private water supply system (including premises supplied with water from the supply system); and
 - (iii) any other information which the enforcing authority may reasonably require for the purposes of enabling it to fulfil its functions under these Regulations,as may be specified or described in the notice; or
- (b) to produce to the enforcing authority, at a time and a place specified in the notice, any documents relating to the matters referred to in sub-paragraph (a) which are specified or described in the notice and are in that person's custody or under that person's control.

(2) A notice under paragraph (1) may only be served on a person whom the enforcing authority has reason to believe is or may be in possession of relevant information or documents which the enforcing authority considers is reasonably required by it in connection with the exercise of its functions under these Regulations (including determining whether to exercise any such function).

(3) Nothing in this regulation authorises the enforcing authority to require the disclosure of anything which a person would be entitled to refuse to disclose on grounds of confidentiality in proceedings in the Court of Session.

(4) References in this regulation to a document are to anything in which information of any description is recorded; and in relation to a document in which information is recorded otherwise than in legible form, references to producing it are to producing it in legible form.

(5) Where by virtue of this regulation documents are produced to any person, that person may take copies of or make extracts from them.

Powers of entry, inspection etc.

29.—(1) For the purposes of establishing whether any requirement of these Regulations has been, is being or is likely to be complied with, the enforcing authority may exercise the powers specified in paragraph (2).

(2) Those powers are—

- (a) the power to enter—
 - (i) any premises to which a supply of water is provided;
 - (ii) any premises of a relevant person; or

- (iii) any premises of any other person,
for the purpose of exercising any of the powers specified in sub-paragraphs (b) to (d);
- (b) the power to carry out such inspections, measurements and tests on those premises or of substances, articles or documents found there as the enforcing authority thinks necessary;
- (c) for the purpose of carrying out such inspections, measurements and tests as the enforcing authority thinks necessary, the power to take away from those premises substances, articles or documents found there; and
- (d) the power to take away from those premises such samples of water, land, substances or articles as the enforcing authority thinks necessary.

(3) The powers specified in paragraph (2) must not be exercised in relation to premises referred to in sub-paragraph (a)(iii) of that paragraph unless the enforcing authority is satisfied that the exercise of those powers in relation to the premises referred to in sub-paragraph (a)(i) and (ii) of that paragraph would be insufficient for the purpose specified in paragraph (1).

(4) The owner and occupier of any premises in relation to which the enforcing authority exercises the powers specified in paragraph (2) and any person on such premises when those powers are being exercised must—

- (a) give the enforcing authority such assistance; and
- (b) provide the enforcing authority with such information,

as the enforcing authority may reasonably require.

Remediation notices

30. Schedule 6 makes provision about remediation notices.

Enforcement notices

31. Schedule 7 makes provision about enforcement notices.

Emergency action and notices

32.—(1) Where an enforcing authority reasonably believes in relation to a supply of water to a point of compliance in its area—

- (a) that a person—
 - (i) has contravened or is contravening a requirement of these Regulations; or
 - (ii) has failed to comply with, or is failing to comply with a requirement of these Regulations;
- (b) that as a result of the contravention or failure to comply there is a significant risk to—
 - (i) public health; or
 - (ii) the quality of a supply of water; and
- (c) that urgent action is necessary to reduce or remove that risk,

the enforcing authority may take action in accordance with this regulation.

(2) The enforcing authority may serve on the person an emergency notice requiring the person, by such date as the notice may specify, to take such steps as the notice may specify, being steps which the enforcing authority considers necessary for the purposes of reducing or removing the risk referred to in paragraph (1)(b).

(3) Without prejudice to paragraph (2), the enforcing authority may—

- (a) enter any premises and carry out such work as the enforcing authority considers necessary for the purposes mentioned in that paragraph; and
 - (b) recover from the person any expenses which the enforcing authority reasonably incurs in carrying out, or securing the carrying out, of that work.
- (4) The expenses which may be recovered under paragraph (3)(b) include such proportion of the enforcing authority's administrative expenses (including expenses incurred in establishing the contravention or the failure to comply, and in connection with the emergency notice) as the enforcing authority considers appropriate.

Variation and withdrawal of notices

33.—(1) The enforcing authority may—

- (a) withdraw—
 - (i) a remediation notice;
 - (ii) an enforcement notice; or
 - (iii) an emergency notice; and
- (b) waive or relax any requirement of any such a notice,

including substituting a later date for a date specified under paragraph 1(4) of schedule 6, paragraph 1(4) of schedule 7 or, as the case may be, regulation 32(2).

(2) The powers in paragraph (1) may be exercised whether or not the notice has taken effect.

(3) The withdrawal of a remediation notice, an enforcement notice or an emergency notice does not affect the enforcing authority's power to issue a further such notice.

Powers of entry, etc.: further provision

34.—(1) Schedule 8 makes further provision about powers of entry etc. conferred by—

- (a) regulation 29(1);
- (b) paragraph 3(2)(a) of schedule 6;
- (c) paragraph 3(2)(a) of schedule 7; and
- (d) regulation 32(3)(a).

(2) References in this Part to a power conferred by any of those provisions include references to such a power exercisable by virtue of a warrant under schedule 8.

Recovery of expenses

35. Schedule 9 makes provision for the recovery by an enforcing authority of certain expenses reasonably incurred by it in the exercise of its functions under these Regulations.

Directions and guidance

36.—(1) The Drinking Water Quality Regulator for Scotland may give directions (whether general or specific) and guidance to an enforcing authority (whether one or more) as to, or in relation to, the exercise of the enforcing authority's functions under these Regulations.

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

- (a) as to the cases and circumstances in which an enforcing authority is, or is not, to exercise any of the powers conferred on the enforcing authority 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 the enforcing authority.
- (3) An enforcing authority must—
 - (a) comply with any such directions; and
 - (b) have regard to any such guidance.

PART 9

OFFENCES: GENERAL DUTIES, ETC.

Offences: general duties

- 37.**—(1) A person commits an offence if the person fails to comply with—
- (a) regulation 8 (duty to provide information);
 - (b) regulation 12(1) (duties in relation to use of unused system);
 - (c) regulation 13(1) (duties in relation to use of disused system);
 - (d) regulation 16 (duty of care: supplies of water); or
 - (e) regulation 17 (duty of care: substances and materials).

(2) In any proceedings against a person for an offence under paragraph (1), it is a defence to show that the person took all reasonable steps and exercised all due diligence to avoid committing the offence.

(3) A person who commits an offence under paragraph (1)(a), (b) or (c) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (4) A person who commits an offence under paragraph (1)(d) or (e) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment, to a fine.

Offence: failure to comply with an information notice

- 38.**—(1) A person commits an offence if the person—
- (a) refuses or fails, without reasonable excuse, to do anything required of the person by a notice under regulation 28(1); or
 - (b) intentionally alters, suppresses or destroys a document which the person is required by such a notice to produce.

(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Offence: obstruction, etc.

- 39.**—(1) A person commits an offence if the person—
- (a) intentionally obstructs a person acting in the exercise of any power conferred by regulation 29(1); or
 - (b) refuses or fails, without reasonable excuse, to comply with a requirement made under regulation 29(4).

(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Offences: emergency notices, etc.

40.—(1) A person commits an offence if the person fails to do anything which an emergency notice requires the person to do (including a failure to complete a step required by a specified date).

(2) A person commits an offence if the person intentionally obstructs any person acting in the exercise of a power conferred by regulation 32(3)(a).

(3) A person who commits an offence under paragraph (1) or (2) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

Offence: false statements

41.—(1) A person commits an offence if the person—

- (a) making an application for a derogation under schedule 5; or
- (b) furnishing information—
 - (i) pursuant to regulation 8; or
 - (ii) in connection with a notice given to the person under regulation 28(1),

makes a statement which that person knows to be false in a material particular, or recklessly makes a statement which is false in a material particular.

(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Offences by bodies corporate etc.

42.—(1) Where—

- (a) an offence under these Regulations has been committed by a body corporate or a Scottish partnership or other unincorporated association; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect of the part of—
 - (i) a relevant individual; or
 - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual as well as the body corporate, Scottish partnership or unincorporated association commits an offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body; or
 - (ii) where the affairs of the body are managed by its members, a member;
- (b) in relation to a Scottish partnership, a partner; and
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

PART 10

OTHER ENACTMENTS: FURTHER PROVISION

Water (Scotland) Act 1980: meaning of “wholesome”

43.—(1) For the purposes of the Water (Scotland) Act 1980(17), water (to which these Regulations apply) which is supplied to any premises is—

- (a) to be regarded as wholesome if it satisfies the water quality standards; and
- (b) not to be regarded as wholesome if it fails to satisfy the water quality standards.

(2) In paragraph (1) “premises” has the meaning it has in section 109(1) (interpretation) of the Water (Scotland) Act 1980.

Water (Scotland) Act 1980: local authority powers

44.—(1) In performing its duty under section 76F(1) (general functions of local authorities in relation to water quality) of the Water (Scotland) Act 1980 to keep informed about the wholesomeness and sufficiency of water supplies in its area, a local authority may in relation to a supply of water (to which these Regulations apply) to premises in the area of the local authority—

- (a) take, or cause to be taken; and
- (b) analyse, or cause to be analysed,

by a person designated by the local authority in writing, such samples of the water (whether at the point of compliance or otherwise) as it may reasonably require pursuant to that duty.

(2) Regulation 20 and schedule 4 apply in relation to a sample of water pursuant to paragraph (1) as they apply in relation to a sample of water pursuant to regulation 18, but with the following modifications:—

- (a) in regulation 20(1)—
 - (i) for “Each enforcing authority” substitute “A local authority”; and
 - (ii) for “regulation 18” substitute “regulation 44(1);
- (b) in regulation 20(2)(a), for “enforcing authority” substitute “local authority”;
- (c) in regulation 20(2)(b)(ii), for “enforcing authority” substitute “local authority”; and
- (d) in schedule 4, for “enforcing authority” in each place it occurs, substitute “local authority”.

Changes to other enactments

45. Schedule 10 makes further provision to amend and revoke other enactments.

St Andrew’s House,
Edinburgh
5th September 2017

R CUNNINGHAM
A member of the Scottish Government