
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 282

WATER SUPPLY

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

Made - - - - - *5th September 2017*
Laid before the Scottish
Parliament - - - - - *7th September 2017*
Coming into force - - - - - *27th October 2017*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 76F(5) to (8), 76J, 101(1) and (1A) and 109(1) of the Water (Scotland) Act 1980(1), section 47(2) to (4) of the Local Government in Scotland Act 2003(2), section 2(2) of the European Communities Act 1972(3), and all other powers enabling them to do so.

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.

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- (1) 1980 c.45. Sections 76F(5) and (6) and 76J were inserted by section 168 and schedule 22 of the Water Act 1989 (c.15). Section 76F(7) and (8) was inserted by section 114 of the Local Government etc. (Scotland) Act 1994 (c.39). Section 76F(5) and (6) was amended by paragraph 119(42) of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39). Section 76J was amended by paragraph 119(45) of schedule 13 of the Local Government etc. (Scotland) Act 1994 (c.39). Section 101(1A) was inserted by section 27(1) and paragraph 9(5) of schedule 10 of the Natural Heritage (Scotland) Act 1991 (c.28). The definition of “prescribed” in section 109(1) was amended by paragraph 38(f) of schedule 11 to the Local Government Finance Act 1992 (c.14). The functions conferred on the Secretary of State under sections 76F(5) to (8), 76J, 101(1) and (1A) and 109(1) of the Water (Scotland) Act 1980 are, so far as they are exercisable within devolved competence, exercisable by the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
- (2) 2003 asp 1.
- (3) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), schedule, Part 1. The functions conferred on a Minister of the Crown under section 2(2) of the European Communities Act 1972 are, so far as they are exercisable within devolved competence, exercisable by the Scottish Ministers by virtue of section 53 of the 1998 Act. Section 2(2) is cited so far as is necessary (to supplement the other powers cited) for the purposes of implementing, or enabling the implementation of, obligations arising under or by virtue of Directive 98/83/EC and Directive 2013/51/EURATOM. In particular, section 2(2) is cited so far as is necessary to enable the making of the provisions in schedules 5 to 10.

(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⁽⁴⁾;
- (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⁽⁵⁾;
- (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⁽⁶⁾;
- (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
- (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

(4) [2005 asp 3](#).

(5) [2002 asp 3](#). Section 30 was amended by section 21(2) of the Water Services etc. (Scotland) Act 2005 ([asp 3](#)).

(6) 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).

(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(7);

“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(8)) for which the local authority is constituted;

“body of water” has the same meaning as in section 28(1) of the Water Environment and Water Services (Scotland) Act 2003(9);

“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

(7) 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.

(8) 1994 c.39.

(9) 2003 asp 3.

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⁽¹⁰⁾;

“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);

“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⁽¹¹⁾ 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;

(10) 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).

(11) 1994 c.39.

“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 whether otherwise specified⁽¹²⁾ 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⁽¹³⁾;

“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⁽¹⁴⁾;

“public water supply system” has the same meaning as it has in section 28(1) of the Water Services etc. (Scotland) Act 2005⁽¹⁵⁾;

“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—
 - (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

⁽¹²⁾ See Note 5 to Table B in schedule 2.

⁽¹³⁾ 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.

⁽¹⁴⁾ 2002 asp 3. Section 30 was amended by section 21(2) of the Water Services etc. (Scotland) Act 2005 (asp 3).

⁽¹⁵⁾ 2005 asp 3.

- (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⁽¹⁶⁾;

“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⁽¹⁷⁾, the competent

⁽¹⁶⁾ 2003 asp 3.

⁽¹⁷⁾ 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).

authority⁽¹⁸⁾ 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) —

- (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.

⁽¹⁸⁾ 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](#).

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*”(19); 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.

(19) 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).

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
 - (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 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 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(20), 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,

(20) 1980 c.45, as last amended by S.S.I. 2014/364.

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

SCHEDULE 1

Regulations 6(1) and 9(3)

INFORMATION TO BE REGISTERED

Dates by which the register must contain information

1. The register must contain or specify—
 - (a) by 1st January 2019—
 - (i) the information specified in paragraph 2, but only in so far as the information can be readily determined from existing sources of available information; and
 - (ii) the information specified in paragraph 4;
 - (b) within 28 days of the date on which the information is first known (or becomes readily available) to the enforcing authority, the information specified in paragraph 3; and
 - (c) by 1st January 2022, any other information specified in paragraph 2.

Information relating to private water supply systems

2. For each private water supply system (“the system”), the register must contain or specify—
 - (a) a unique reference number, and a unique locality-based name, for the system;
 - (b) which supply zone the system is situated in;
 - (c) the estimated volume of water (in m³) supplied each day by the system (as an average taken over a year) to all premises (including those outside the area of the enforcing authority) which are within the supply zone for the water supplied;
 - (d) the estimated maximum number of persons served by the system on the same day (including any person served outside the area of the enforcing authority);
 - (e) a map identifying the location of every known part of the system (including any part of the system which is outside the area of the enforcing authority), including (if known to the enforcing authority)—
 - (i) the ownership of land from which any part of the water is abstracted; and
 - (ii) the ownership of land in, on or over which any part of the supply is installed;
 - (f) for each point at which water is abstracted—
 - (i) the Ordnance Survey national grid reference; and
 - (ii) whether the water is abstracted from a watercourse, loch, spring, well, borehole or other source (and, if abstracted from the latter, a description of the other source);
 - (g) details of any treatment carried out in relation to water supplied by the system;
 - (h) the address of each building supplied, or to be supplied, with water;
 - (i) if known to the enforcing authority, the name and address of any person who owns—
 - (i) a building supplied, or to be supplied, with the water;
 - (ii) land from which any part of the water is abstracted (from the water environment); and
 - (iii) land in, on or over which any part of the private water supply system is installed;
 - (j) details of monitoring programmes (so far as relevant) prepared by the enforcing authority to meet its obligations under these Regulations; and

- (k) details of any grant awarded or paid in relation to the system under the Private Water Supply (Grants) (Scotland) Regulations 2006(21).

Information relating to water supplied

3. For each registered private water supply system, the register must also contain or specify the following information (if any) in relation to water (“the water”) supplied through any part of the system to a point of compliance in the area of the enforcing authority:—

- (a) a copy of the risk assessment in relation to the water;
- (b) information about any relevant derogation under these Regulations, including a copy of—
 - (i) application for the derogation;
 - (ii) the derogation granted; and
 - (iii) any revocation or modification of the derogation;
- (c) the results of each sample of the water taken and analysed pursuant to these Regulations;
- (d) the results of any investigation under regulation 21(a);
- (e) details of any remedial action taken pursuant to regulation 21(b) or (c); and
- (f) a copy of any remediation notice, enforcement notice or emergency notice served in relation to the water.

Information from previous register

4.—(1) For each registered private water supply system (“the system”), the register must contain copies of any information (“the information”) relating to—

- (a) the system; and
- (b) the water previously supplied into, through or from the system,

which was, immediately before 27th October 2017, required to be maintained in a register (“a previous register”) under regulation 34 of the Private Water Supplies (Scotland) Regulations 2006(22).

(2) If any information which an enforcing authority (“the registering authority”) is required to keep under sub-paragraph (1) was immediately before 27th October 2017 contained in a previous register which was maintained by any other enforcing authority, the other enforcing authority must forward the information (or, if the other enforcing authority is also required to maintain a register containing any of the same information, forward a copy of it) to the registering authority.

(21) S.S.I. 2006/210.

(22) S.S.I. 2006/209, as amended by S.S.I. 2010/95, S.S.I. 2014/364 and S.S.I. 2015/346.

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

SCHEDULE 2

Regulation 3(1)

PARAMETERS AND PARAMETRIC VALUES

PART A

Microbiological parameters

| <i>Parameter</i> | <i>Parametric value (number/volume)</i> |
|-------------------------|---|
| Enterococci | 0/100 ml |
| <i>Escherichia coli</i> | 0/100 ml |

PART B

Chemical parameters

| <i>Parameter</i> | <i>Parametric value</i> | <i>Unit</i> | <i>Notes</i> |
|--------------------|-------------------------|-------------|--------------|
| Acrylamide | 0.10 | µg/l | Note 1 |
| Antimony | 5.0 | µg/l | |
| Arsenic | 10 | µg/l | |
| Benzene | 1.0 | µg/l | |
| Benzo(a)pyrene | 0.010 | µg/l | |
| Boron | 1.0 | mg/l | |
| Bromate | 10 | µg/l | Note 2 |
| Cadmium | 5.0 | µg/l | |
| Chromium | 50 | µg/l | |
| Copper | 2.0 | mg/l | Note 3 |
| Cyanide | 50 | µg/l | |
| 1,2-dichloroethane | 3.0 | µg/l | |
| Epichlorohydrin | 0.10 | µg/l | Note 1 |
| Fluoride | 1.5 | mg/l | |
| Lead | 10 | µg/l | Note 3 and 4 |
| Mercury | 1.0 | µg/l | |
| Nickel | 20 | µg/l | Note 3 |
| Nitrate | 50 | mg/l | |
| Nitrite | 0.50 | mg/l | |
| | 0.10 | mg/l | Note 5 |

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

| <i>Parameter</i> | <i>Parametric value</i> | <i>Unit</i> | <i>Notes</i> |
|---------------------------------------|-------------------------|-------------|----------------|
| Pesticides— | | | Note 6 |
| Aldrin | 0.030 | µg/l | |
| Dieldrin | 0.030 | µg/l | |
| Heptachlor | 0.030 | µg/l | |
| Heptachlor epoxide | 0.030 | µg/l | |
| Other pesticide | 0.10 | µg/l | Note 7 |
| Pesticides: total | 0.50 | µg/l | Notes 6 and 8 |
| Polycyclic aromatic hydrocarbons | 0.10 | µg/l | Note 9 |
| Selenium | 10 | µg/l | |
| Tetrachloroethene and trichloroethene | 10 | µg/l | Note 10 |
| Trihalomethanes: total | 100 | µg/l | Notes 2 and 11 |
| Vinyl chloride | 0.50 | µg/l | Note 1 |

Note 1: The parametric value refers to the residual monomer concentration in the water as calculated according to specifications of the maximum release from the corresponding polymer in contact with the water.

Note 2: Where possible, without compromising disinfection, an enforcing authority (in relation a supply of water) must strive for a lower value.

Note 3: The parametric value applies to a sample of water obtained by an adequate sampling method at the tap and taken so as to be representative of a weekly average value ingested by consumers of the water. Where appropriate the sampling and monitoring methods must be applied in accordance with any guidelines under Article 7(4) of Council [Directive 98/83/EC](#) on the quality of water intended for human consumption(23). Each enforcing authority in relation to the water must take account of the occurrence of peak levels that may cause adverse effects on human health.

Note 4: When implementing measures to achieve compliance with this parametric value, each enforcing authority (in relation supplies of water to premises) must progressively give priority where lead concentrations in the water are highest.

Note 5: The additional parametric value of 0.10 mg/l applies only if the water is subject to treatment to improve its quality. The point of compliance for this additional parametric value is the point at which the water flows out from the treatment works.

Note 6: “Pesticide” means an organic insecticide, organic herbicide, organic fungicide, organic nematocide, organic acaricide, organic algicide, organic rodenticide, organic slimicide, a related product (including growth regulator) and any relevant metabolite, degradation or reaction product. Only those pesticides which are likely to be present in a supply of water need to be monitored.

Note 7: “Other pesticide” means a pesticide other than aldrin, dieldrin, heptachlor and heptachlor epoxide. The parametric value applies to each “other pesticide” individually.

(23) 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).

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Note 8: The parametric value for this parameter is the sum of all individual pesticides detected and quantified in the monitoring procedure.

Note 9: The parametric value for this parameter is the sum of the concentrations of benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(ghi)perylene and indeno(1,2,3-cd)pyrene.

Note 10: The parametric value for this parameter is the sum of the concentrations of tetrachloroethene and trichloroethene.

Note 11: The parametric value for this parameter is the sum of chloroform, bromoform, dibromochloromethane and bromodichloromethane.

PART C

Indicator parameters

| <i>Parameter</i> | <i>Parametric value</i> | <i>Unit</i> | <i>Notes</i> |
|--|---|---------------------|---------------|
| Aluminium | 200 | µg/l | |
| Ammonium | 0.50 | mg/l | |
| Chloride | 250 | mg/l | Note 1 |
| <i>Clostridium perfringens</i> (including spores) | 0 | number/100 ml | |
| Colour | Acceptable to consumers and no abnormal change | | |
| Colour | 20 | mg/l Pt/Co | |
| Conductivity | 2500 | µS/cm at 20 °C | Note 1 |
| Hydrogen concentration | ion ≥ 6.5 and ≤ 9.5 | pH units | Notes 1 and 3 |
| Iron | 200 | µg/l | Note 2 |
| Manganese | 50 | µg/l | Note 2 |
| Odour | Acceptable to consumers and no abnormal change | | |
| Oxidisability | 5.0 | mg/l O ₂ | Note 4 |
| Sulphate | 250 | mg/l | Note 1 |
| Sodium | 200 | mg/l | |
| Taste | Acceptable to consumers and no abnormal change | | |
| Colony count 22 °C | No abnormal change | | |
| Coliform bacteria | 0 | number/100 ml | Note 5 |
| Total organic carbon | No abnormal change | | Note 6 |

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| <i>Parameter</i> | <i>Parametric value</i> | <i>Unit</i> | <i>Notes</i> |
|------------------|--|-------------|--------------|
| Turbidity | Acceptable to consumers and no abnormal change | | Note 7 |

Parametric values for radon, tritium and indicative dose—

| <i>Parameter</i> | <i>Parametric value</i> | <i>Unit</i> | <i>Notes</i> |
|------------------|-------------------------|-------------|--------------|
| Radon | 100 | Bq/l | Note 8 |
| Tritium | 100 | Bq/l | Note 9 |
| Indicative dose | 0.10 | mSv | |

Note 1: The water must not be aggressive.

Note 2: This parameter must be measured if the water originates from, or is influenced by, surface water.

Note 3: For still water put into bottles or containers, the minimum value may be reduced to 4.5 pH units. For water put into bottles or containers which is naturally rich in or artificially enriched with carbon dioxide, the minimum value may be lower.

Note 4: This parameter need not be measured if total organic carbon is analysed.

Note 5: For water put into bottles or containers the unit is number/250 ml.

Note 6: This parameter need not be measured for supplies of less than 10,000 m³ of water a day.

Note 7: If the water is subject to treatment to improve its quality, each enforcing authority in relation to the water must strive to ensure that the water, at the point at which it flows out from the treatment works, does not exceed 1.0 nephelometric turbidity units.

Note 8: Remedial action is to be deemed justified on radiological protection grounds, without further consideration, where radon concentrations exceed 1,000 Bq/l.

Note 9: Elevated levels of tritium may indicate the presence of other artificial radionuclides. If the tritium concentration exceeds its parametric value, each enforcing authority in relation to the water must also carry out an analysis of the presence of other artificial radionuclides.

SCHEDULE 3

Regulation 19(2) and (3)

MONITORING

PART A

Monitoring programmes

1. Each monitoring programme must—

(a) verify that—

(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 the point of compliance meets the water quality standards;

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- (b) provide information on the quality of water supplied to demonstrate that—
 - (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 the risks to human health.
- 2.—(1) Each monitoring programme must fulfil the requirements of Part B of this schedule (and, where applicable, Part C of this schedule) by means of—
- (a) the collection and analysis of the quality of discrete water samples; or
 - (b) measurements of the quality of water recorded by a continuous monitoring process.
- (2) In addition, monitoring programmes may consist of—
- (a) inspections of records of the functionality and maintenance status of equipment; and
 - (b) inspections of the catchment area, water abstraction, treatment, storage and distribution infrastructure.
3. An enforcing authority must ensure that each monitoring programme prepared by it is reviewed on a continuous basis, and updated or reconfirmed at least every 5 years.

PART B

Standard parameters and frequencies

- 1.—(1) Each monitoring programme must take into account—
- (a) each parameter; and
 - (b) any other micro-organism, parasite or substance which needs to be monitored by virtue of regulation 18(2) or (3),
- including those that are important for assessing the impact of any part of a private water supply system on the quality of water at a point of compliance.
- (2) When choosing appropriate parameters and other micro-organisms, parasites or substances for monitoring (as required by, or in accordance with, this schedule), local conditions for each private water supply system must be taken into consideration.
- 2.—(1) The following parameters (“Group A parameters”) must be monitored at least at the minimum frequencies determined in accordance with the table in paragraph 3:—
- (a) *Escherichia coli*, coliform bacteria, colony count 22 °C, colour, turbidity, taste, odour, hydrogen ion concentration (pH), and conductivity; and
 - (b) any other parameter, or other micro-organism, parasite or substance, (except radon, tritium and indicative dose) identified as relevant in the monitoring programme—
 - (i) by virtue of regulation 18(2) (as read with regulation 19(2)(a)); or
 - (ii) where relevant, through a risk assessment.
- (2) Ammonium and nitrite must be included as Group A parameters, if chloramination is used.
- (3) Aluminium and iron must be included as Group A parameters, if used as water treatment chemicals.
- 3.—(1) Other parameters, except radon, tritium and indicative dose, (“Group B parameters”) must be monitored at least at the frequencies determined in accordance with the table below.
- (2) In the table, “Group A parameters” is to be construed in accordance with paragraph 2.

Minimum frequency of sampling and analysis for compliance monitoring

| <i>Volume of water (in m³) distributed or produced each day within a supply zone (Notes 1 and 2)</i> | | <i>Group A parameters: number of samples per year</i> | <i>Group B parameters: number of samples per year</i> |
|---|-----------|--|--|
| > 0 | ≤ 100 | 1 | 1 |
| > 100 | ≤ 1,000 | 4 | 1 |
| > 1,000 | ≤ 10,000 | 4 for the first 1,000 m ³ /day of the total volume, plus 3 for each additional 1,000 m ³ /day and part thereof | 1 for the first 1,000 m ³ /day of the total volume, plus 1 for each additional 4,500 m ³ /day and part thereof |
| > 10,000 | ≤ 100,000 | 4 for the first 1,000 m ³ /day of the total volume, plus 3 for each additional 1,000 m ³ /day and part thereof | 3 for the first 10,000 m ³ /day of the total volume, plus 1 for each additional 10,000 m ³ /day and part thereof |
| > 100,000 | | 4 for the first 1,000 m ³ /day of the total volume, plus 3 for each additional 1,000 m ³ /day and part thereof | 12 for the first 100,000 m ³ /day of the total volume, plus 1 for each additional 25,000 m ³ /day and part thereof |

Note 1: The volumes are calculated as averages taken over a year.

Note 2: The number of inhabitants in a supply zone may be used instead of the volume of water to determine the minimum frequency, assuming water consumption of 0.2 m³/day per person.

4.—(1) A sample of water must be taken at least annually at a point of compliance for each private water supply system, and analysed for—

- (a) enterococci, *Escherichia coli*, coliform bacteria, colony count 22 °C, colour, turbidity, *Clostridium perfringens* and hydrogen ion concentration (pH);
- (b) copper, iron, lead, manganese, nickel and zinc;
- (c) where the water is supplied to premises within a nitrate vulnerable zone, nitrate; and
- (d) any other parameter, or other micro-organism, parasite or substance, identified (for the time being) as relevant in the monitoring programme in relation to a supply of water—
 - (i) by virtue of regulation 18(2) (as read with regulation 19(2)(a)); or
 - (ii) where relevant, through a risk assessment.

(2) In sub-paragraph (1) “nitrate vulnerable zone” means any area of land designated as a nitrate vulnerable zone by regulation 2 of the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2015(24).

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PART C

Deviation from standard parameters and frequencies

1. An enforcing authority may (or, where required, must), in accordance with this Part, deviate from the requirements of paragraphs 2, 3 and 4 in Part B of this schedule.

2. Based on the results of a risk assessment, the list of parameters in Part B of this schedule (including any micro-organism, parasite or substance referred to in paragraph 2(1)(b) of that Part), must be extended and/or the minimum sampling frequencies under that Part increased if—

- (a) the list of parameters or frequencies required to be monitored under that Part B is not sufficient to fulfil the obligations imposed by regulation 18(1), (3) and (4);
- (b) additional monitoring is required by regulation 18(2); or
- (c) this is necessary to verify the matters in paragraph 1(a) of Part A of this schedule.

3. Subject to paragraph 4, based on the results of a risk assessment the list of parameters in Part B of this schedule (including any micro-organism, parasite or substance referred to in paragraph 2(1)(b) of that Part) and the sampling frequencies under that Part B may be reduced, provided that the following conditions are met:—

- (a) the frequency of sampling for *Escherichia coli* must not be reduced below the minimum frequency required by that Part B; and
- (b) for other parameters in the list—
 - (i) the location and frequency of sampling must be determined in relation to the parameter's origin, as well as the variability and long-term trend of its concentration, taking into account the water quality standards;
 - (ii) to reduce the minimum sampling frequency for a parameter under Part B of this schedule, the results obtained from samples collected at regular intervals over a period of at least 3 years from sampling points representative of the whole supply zone must all be less than 60 % of the parametric value;
 - (iii) to remove a parameter from the list of parameters to be monitored under Part B of this schedule, the results obtained from samples collected at regular intervals over a period of at least 3 years from points representative of the whole supply zone must all be less than 30 % of the parametric value; and
 - (iv) the removal of a parameter from the list of parameters to be monitored under Part B of this schedule must be based on the result of the risk assessment, informed by the results of monitoring of sources of water and confirming that human health is protected from the adverse effects of any contamination of water.

4.—(1) The minimum sampling frequency for a parameter under Part B of this schedule (including for a micro-organism, parasite or substance referred to in paragraph 2(1)(b) of that Part) may be reduced under paragraph 3(b)(ii) only if the risk assessment confirms that no factor (that can be reasonably anticipated) is likely to cause deterioration of the quality of the water.

(2) Any such parameter may be removed from the list of parameters to be monitored by an enforcing authority under paragraph 3(b)(iii) only if—

- (a) the risk assessment confirms that no factor (that can be reasonably anticipated) is likely to cause deterioration of the quality of the water; and
- (b) the Drinking Water Quality Regulator for Scotland, by notice to the enforcing authority, consents to the removal of the parameter from the list of parameters to be monitored in relation to a supply of water (or in relation to more than one supply of water), and that consent has not been revoked under sub-paragraph (3).

(3) The Drinking Water Quality Regulator for Scotland may, by notice to the enforcing authority, revoke with immediate effect any consent given by it under sub-paragraph (2)(b).

PART D

Sampling methods and sampling points

1.—(1) Sampling points, in relation to water, must be determined by the enforcing authority so as to ensure that the results of the analysis of discrete water samples collected at those points will establish whether or not the water meets the water quality standards at each point of compliance.

(2) In the case of a supply of water in pipes to any premises used for a commercial or public activity, the sampling points must include a point of compliance within each premises.

(3) In the case of a supply of water in pipes to premises (including any premises used for a commercial or public activity), an enforcing authority may take samples of the water within the supply zone or at a treatment works for a particular parameter—

- (a) if it can be demonstrated that there would be no adverse change to the measured value of the parameter concerned; and
- (b) in the case of any premises used for a commercial or public activity, the Drinking Water Quality Regulator for Scotland, by notice to the enforcing authority, consents to the samples being taken within the supply zone or at the treatment works for the particular parameter, and that consent has not been revoked under sub-paragraph (6).

(4) In a case where an enforcing authority may take samples of the water within the supply zone or at a treatment works for a particular parameter, the point at which the samples are taken is to be treated for the purposes of these Regulations as the point of compliance for the parameter.

(5) As far as possible, the number of samples must be distributed equally in time and location.

(6) The Drinking Water Quality Regulator for Scotland may, by notice to the enforcing authority, revoke with immediate effect any consent given by it under sub-paragraph (3)(b).

2. Subject to paragraph 1, sampling at the point of compliance must meet the following requirements:—

- (a) a sample for copper, lead or nickel must be taken at the consumer's tap without prior flushing;
- (b) a sample for any such parameter or any other chemical parameter must—
 - (i) be a random daytime sample of one litre volume; or
 - (ii) use a fixed stagnation time method that better reflects the national situation, provided that, at the supply zone level, this does not result in fewer cases of non-compliance than using the random daytime method; and
- (c) a sample for microbiological parameters at the point of compliance must be taken and handled in accordance with sampling purpose B of European standard EN ISO 19458:2006 entitled "*Water quality - Sampling for microbiological analysis (ISO 19458:2006)*"(25).

3. Sampling of water in a private water supply system, with the exception of sampling at the consumer's tap, must be in accordance with international standard ISO 5667-5:2006 entitled "*Water quality. Sampling. Guidance on sampling of drinking water from treatment works and piped distribution systems*"(26).

(25) This standard was approved by the European Committee for Standardization (CEN) on 1st July 2006. Under reference BS EN ISO 19458, it is published as a UK standard by the British Standards Institution (ISBN 0 580 49136 6).

(26) This standard was approved by the International Organization for Standardization (ISO). Under reference BS ISO 5667-5:2006, it is published as a UK standard by the British Standards Institution (ISBN 0 580 47140 3).

4. For microbiological parameters, sampling of water in a private water supply system must be taken and handled in accordance with sampling purpose A of European standard EN ISO 19458:2006 entitled “*Water quality - Sampling for microbiological analysis (ISO 19458:2006)*”.

PART E

Radioactive substances

General principles and monitoring frequencies

1.—(1) Subject to sub-paragraph (2), each enforcing authority in relation to a supply of water must ensure that the water is monitored for radon, tritium and indicative dose.

(2) Where the Scottish Ministers, by notice to the enforcing authority, confirm that they have established that radon, tritium or, as the case may be, indicative dose is not likely to be present in relation one or more supplies of water, for a period specified in the notice, in concentrations which could exceed the parametric value for the parameter, the enforcing authority is not required to monitor any such supply of water for the parameter during the period specified.

(3) In case of naturally occurring radionuclides—

- (a) where previous results show that the concentration of radionuclides in one or more supplies of water is stable, the minimum sampling and analysis frequencies are to be decided by the Scottish Ministers, and confirmed by notice to the enforcing authority, taking into consideration the risk to human health; and
- (b) where the Scottish Ministers, by notice to the enforcing authority, confirm that they are satisfied (on the basis of representative surveys, monitoring data or other reliable information) that levels of radon, tritium and the calculated indicative dose in one or more supplies of water will, for a period specified in the notice, remain below the parametric value for each parameter at the point of compliance, the enforcing authority is not required to monitor any such supply for these parameters during the period specified.

(4) Where sub-paragraph (3)(b) applies, the Scottish Ministers must communicate the grounds for the decision to the European Commission and provide the Commission with the necessary documentation supporting that decision, including the findings of any surveys, monitoring or investigations carried out.

Radon

2.—(1) Subject to paragraphs 5 and 6, the enforcing authority must ensure that representative surveys are undertaken to determine the scale and nature of likely exposures to radon in the water originating from different types of ground water sources and wells in different geological areas.

(2) The surveys must be designed in such a way that underlying factors, and especially the geology and hydrology of the area, radioactivity of rock or soil, and well type, can be identified and used to direct further action to areas of likely high exposure.

(3) Monitoring of radon concentrations must be carried out if the enforcing authority has reason to believe, on the basis of the results of the representative surveys or other reliable information, that the parametric value for radon might be exceeded.

Tritium

3.—(1) Subject to paragraphs 5 and 6, the enforcing authority must monitor the water for tritium where—

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- (a) an anthropogenic source of tritium or other artificial radionuclides is present within the catchment area for the supply; and
 - (b) it cannot be shown on the basis of other surveillance programmes or investigations that the level of tritium is below the parametric value for tritium.
- (2) Where monitoring for tritium is required by sub-paragraph (1), samples must be taken in accordance with paragraph 6.
- (3) If the concentration of tritium in any such sample exceeds the parametric value for tritium, the enforcing authority must carry out an investigation of the presence of other artificial radionuclides.

Indicative dose

- 4.—(1) The enforcing authority must monitor the water for indicative dose where—
- (a) a source of artificial radioactivity or elevated natural radioactivity is present; and
 - (b) it cannot be shown on the basis of other representative monitoring programmes or other investigations that the indicative dose is below the parametric value for that parameter.
- (2) Where sub-paragraph (1) requires monitoring (of radionuclide levels) only in relation to a source of artificial radioactivity, samples must be taken in accordance with paragraph 6.
- (3) Where sub-paragraph (1) requires monitoring (of radionuclide levels) in relation to a source of elevated natural radioactivity, the enforcing authority must determine the frequency of the monitoring required of—
- (a) gross alpha activity;
 - (b) gross beta activity; or
 - (c) individual natural radionuclides,
- depending on the screening strategy adopted pursuant to Part B of this schedule.
- (4) Where sub-paragraph (3) applies, the frequency determined may vary from a single check measurement to the frequency which would otherwise apply by virtue of paragraph 6.
- (5) Where a single check for natural radioactivity is specified under sub-paragraph (3), the enforcing authority must carry out a further check if any change occurs in relation to the supply which is likely to influence the concentrations of radionuclides in the supply.

Water treatment

5. Where the water is treated to reduce the level of radionuclides, the enforcing authority must monitor the water for indicative dose, radon and tritium in accordance with paragraph 6 to verify the continued efficacy of that treatment.

Minimum sampling and analysis frequencies

6. The minimum sampling and analysis frequency for the monitoring of radon, tritium and indicative dose in water (where required by this schedule) from a private water supply system or from a tanker or used in a food production undertaking is set out in the following table.

| <i>Volume of water (in m³) distributed or produced each day within a supply zone (Note 1)</i> | | <i>Number of samples per year (Notes 2 and 3)</i> |
|--|---------|---|
| > 0 | ≤ 100 | 1 |
| > 100 | ≤ 1,000 | 1 |

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| <i>Volume of water (in m³) distributed or produced each day within a supply zone (Note 1)</i> | | <i>Number of samples per year</i> <i>(Notes 2 and 3)</i> |
|--|-----------|---|
| > 1,000 | ≤ 10,000 | 1, plus 1 for each 3,300 m ³ /day and part thereof of the total volume |
| > 10,000 | ≤ 100,000 | 3, plus 1 for each 10,000 m ³ /day and part thereof of the total volume |
| > 100,000 | | 10, plus 1 for each 25,000 m ³ /day and part thereof of the total volume |

Note 1: The volumes are calculated as averages taken over a year. The number of inhabitants in a supply zone may be used instead of the volume of water to determine the minimum frequency, assuming water consumption of 200 litres/day per person.

Note 2: As far as possible, the number of samples must be distributed equally in time and location.

Note 3: In the event of intermittent short-term supply the monitoring frequency of water distributed by tankers must be decided by each enforcing authority in relation to the water.

Averaging

7. Where the parametric value for radon, tritium or, as the case may be, indicative dose is exceeded in a sample of the water, the Drinking Water Quality Regulator for Scotland must specify, by notice to the enforcing authority, the extent of resampling necessary to ensure that the measured values are representative of an average activity concentration for a full year.

PART F

Indicative dose

Monitoring for compliance with the indicative dose

1.—(1) Each enforcing authority, in relation to water, may use reliable screening strategies to indicate the presence of radioactivity in the water.

(2) These strategies may include screening for—

- (a) certain radionuclides or an individual radionuclide; or
- (b) gross alpha activity or gross beta activity.

Screening for certain radionuclides or for an individual radionuclide

2.—(1) Where screening of the water is carried out for certain radionuclides or for an individual radionuclide, the enforcing authority must carry out an analysis of additional radionuclides if, in relation to any supply referred to in paragraph 1—

- (a) one of the activity concentrations of a radionuclide in the second column of the table below exceeds 20% of the corresponding derived concentration in the third column; or
- (b) the tritium concentration exceeds the parametric value for tritium.

(2) The enforcing authority must, in deciding which radionuclides require to be measured for each supply, take into account all relevant information about likely sources of radioactivity.

| <i>Origin</i> | <i>Radionuclide</i> <i>(Note 1)</i> | <i>Derived concentration (Bq/l)</i> | <i>Notes</i> |
|---------------|--|-------------------------------------|--------------|
| Natural | U-238 | 3.0 | Note 2 |
| | U-234 | 2.8 | Note 2 |
| | Ra-226 | 0.5 | |
| | Ra-228 | 0.2 | |
| | Pb-210 | 0.2 | |
| | Po-210 | 0.1 | |
| Artificial | C-14 | 240 | |
| | Sr-90 | 4.9 | |
| | Pu-239 / Pu-240 | 0.6 | |
| | Am-241 | 0.7 | |
| | Co-60 | 40 | |
| | Cs-134 | 7.2 | |
| | Cs-137 | 11 | |
| | I-131 | 6.2 | |

Note 1: This table includes values for the most common natural and artificial radionuclides. These are precise values, calculated for a dose of 0.1 mSv, an annual intake of 730 litres and using the dose coefficients laid down in Table (A) of Annex III to Council Directive 96/29/Euratom laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation(27). Derived concentrations for other radionuclides may be calculated on the same basis.

Note 2: This allows only for the radiological properties of uranium, not for its chemical toxicity.

Screening for gross alpha activity and gross beta activity

3.—(1) The enforcing authority may use screening strategies for gross alpha activity and gross beta activity (or, where appropriate, residual beta activity after subtraction of the potassium-40 activity) to monitor the water for indicative dose.

(2) Subject to sub-paragraph (3), screening levels must be set at—

- (a) 0.1 Bq/l for gross alpha activity; and
- (b) 1.0 Bq/l for gross beta activity.

(3) The enforcing authority may set alternative levels to those specified in sub-paragraph (2) if it can demonstrate that these will ensure that an indicative dose of 0.1 mSv is not exceeded.

(4) If the gross alpha activity is less than 0.1 Bq/l and the gross beta activity is less than 1.0 Bq/l, the enforcing authority may assume that the indicative dose is less than 0.1 mSv.

(5) Where sub-paragraph (4) applies, the enforcing authority is not required to carry out a radiological investigation unless it is aware—

- (a) that specific radionuclides are present in the water; and

(27) OJ L 159, 29.6.1996, p. 1., as amended by Corrigendum (OJ L 314, 4.12.1996, p. 20).

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(b) that these are liable to cause an indicate dose in excess of 0.1 mSv.

(6) If the gross alpha activity exceeds 0.1 Bq/l or the gross beta activity exceeds 1.0 Bq/l, the enforcing authority must carry out an analysis for specific radionuclides.

(7) The enforcing authority must, in deciding which radionuclides require to be measured for the purposes of sub-paragraph (6), take into account all relevant information about likely sources of radioactivity.

(8) If elevated levels of tritium are detected in a sample, the enforcing authority must also measure the gross alpha activity and gross beta activity in that sample.

Calculation of the indicative dose

4.—(1) The indicative dose must be calculated from—

(a) the measured radionuclide concentrations and the dose coefficients laid down in Table (A) of Annex III to Council Directive 96/29/Euratom laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation; or

(b) more recent information recognised by the Scottish Ministers, on the basis of an annual intake of water of 730 litres for adults.

(2) Where the following formula is satisfied, the enforcing authority may assume that the indicative dose is less than 0.1 mSv and that no further investigation is required:—

$$\sum_{i=1}^n \frac{C_i (obs)}{C_i (der)} \leq 1$$

where—

“ $C_i (obs)$ ” refers to the observed concentration of radionuclide “ i ”;

“ $C_i (der)$ ” refers to derived concentration of radionuclide “ i ”; and

“ n ” refers to the number of radionuclides detected.

SCHEDULE 4

Regulation 20(1) and (2)

METHODS OF ANALYSIS

1.—(1) The enforcing authority must ensure that the methods of analysis used for the purposes of monitoring and demonstrating compliance with these Regulations are validated and documented in accordance with European standard EN ISO/IEC 17025:2005 entitled “*General requirements for the competence of testing and calibration laboratories (ISO/IEC 17025:2005)*”(28), or other equivalent standards accepted at international level.

(2) The enforcing authority must ensure that laboratories or parties contracted by laboratories apply quality management system practices in accordance with European standard EN ISO/IEC 17025:2005 entitled “*General requirements for the competence of testing and calibration laboratories (ISO/IEC 17025:2005)*”, or other equivalent standards accepted at international level.

2. In the absence of an analytical method meeting the minimum performance criteria set out in Part B of this schedule, the enforcing authority must ensure that monitoring is carried out using best available techniques not entailing excessive costs.

(28) This standard was approved by the European Committee for Standardization (CEN) on 15th March 2005. Under reference BS EN ISO/IEC 17025:2005, it is published as a UK standard by the British Standards Institution (ISBN 0 580 46330 3).

PART A

Microbiological parameters

- 1.—(1) Subject to sub-paragraph (2), the methods in paragraph 2 are given for reference.
- (2) The enforcing authority may use other methods, providing the provisions of regulation 20 are met.
2. The methods for microbiological parameters are—
 - (a) for *Escherichia coli* and coliform bacteria—
 - (i) European standard EN ISO 9308-1:2014 entitled “*Water quality - Enumeration of Escherichia coli and coliform bacteria - Part 1: Membrane filtration method for waters with low bacterial background flora (ISO 9308-1:2014)*”(29); or
 - (ii) European standard EN ISO 9308-2:2014 entitled “*Water quality - Enumeration of Escherichia coli and coliform bacteria - Part 2: Most probable number method (ISO 9308-2:2012)*”(30);
 - (b) for enterococci, European standard EN ISO 7899-2:2000 entitled “*Water quality - Detection and enumeration of intestinal enterococci - Part 2: Membrane filtration method (ISO 7899-2:2000)*”(31);
 - (c) for *Pseudomonas aeruginosa*, European standard EN ISO 16266:2008 entitled “*Water quality - Detection and enumeration of Pseudomonas aeruginosa - Method by membrane filtration (ISO 16266:2006)*”(32);
 - (d) for colony count 22 °C (the enumeration of culturable microorganisms — colony count after aerobic incubation at 22 °C), European standard EN ISO 6222:1999 entitled “*Water quality - Enumeration of culturable micro-organisms - Colony count by inoculation in a nutrient agar culture medium (ISO 6222:1999)*”(33); and
 - (e) for *Clostridium perfringens* including spores, European standard EN ISO 14189:2016 entitled “*Water quality - Enumeration of Clostridium perfringens - Method using membrane filtration (ISO 14189:2013)*”(34).

PART B

Chemical and indicator parameters

- 1.—(1) Subject to paragraph 3, for a parameter in Table 1, the method of analysis used must, as a minimum, be capable of measuring concentrations equal to the parametric value for the parameter with—
 - (a) a limit of quantification of 30 % or less of the parametric value; and

(29) This standard was approved by the European Committee for Standardization (CEN) on 18th January 2017. Under reference BS EN ISO 9308-1:2014+A1:2017, it is published as a UK standard by the British Standards Institution (ISBN 978 0 580 92379 1).

(30) This standard was approved by the European Committee for Standardization (CEN) on 11th April 2014. Under reference BS EN ISO 9308-2:2014, it is published as a UK standard by the British Standards Institution (ISBN 978 0 580 84023 4).

(31) This standard was approved by the European Committee for Standardization (CEN) on 11th April 2014. Under reference BS EN ISO 7899-2:2000, it is published as a UK standard by the British Standards Institution (ISBN 0 580 34953 5).

(32) This standard was approved by the European Committee for Standardization (CEN) on 11th January 2008. Under reference BS EN ISO 16266:2008, it is published as a UK standard by the British Standards Institution (ISBN 978 0 580 59736 7).

(33) This standard was approved by the European Committee for Standardization (CEN) on 16th March 1999. Under reference BS EN ISO 6222:1999, it is published as a UK standard by the British Standards Institution (ISBN 0 580 32495 8).

(34) This standard was approved by the European Committee for Standardization (CEN) on 15th July 2016. Under reference BS EN ISO 14189:2016, it is published as a UK standard by the British Standards Institution (ISBN 978 0 580 92184 1).

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(b) an uncertainty of measurement as specified in Table 1.

(2) The result of the analysis for a parameter in Table B or Table C must be expressed using at least the same number of significant figures as the parametric value for the parameter in the table.

2. The uncertainty of measurement specified in Table 1 must not be used as an additional tolerance to the parametric values.

3. Until 31st December 2019, the enforcing authority may, for a parameter in Table 2, use the corresponding 'trueness', 'precision' and 'limit of detection' in that table as an alternative set of performance characteristics (instead of using the limit of quantification and the uncertainty of measurement referred to in paragraph 1(1)).

TABLE 1

Minimum performance characteristic: uncertainty of measurement

| <i>Parameter</i> | <i>Uncertainty of measurement</i> <i>(% of parametric value, except pH) (Note 1)</i> | <i>Notes(35)</i> |
|------------------------------------|---|------------------|
| Aluminium | 25 | |
| Ammonium | 40 | |
| Antimony | 40 | |
| Arsenic | 30 | |
| Benzo(a)pyrene | 50 | Note 5 |
| Benzene | 40 | |
| Boron | 25 | |
| Bromate | 40 | |
| Cadmium | 25 | |
| Chloride | 15 | |
| Chromium | 30 | |
| Conductivity | 20 | |
| Copper | 25 | |
| Cyanide | 30 | Note 6 |
| 1,2-dichloroethane | 40 | |
| Fluoride | 20 | |
| Hydrogen ion concentration (in pH) | 0.2 | Note 7 |
| Iron | 30 | |
| Lead | 25 | |
| Manganese | 30 | |

(35)

Acrylamide, epichlorohydrin and vinyl chloride to be controlled by product specification.

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| <i>Parameter</i> | <i>Uncertainty of measurement</i> <i>(% of parametric value, except pH) (Note 1)</i> | <i>Notes(35)</i> |
|----------------------------------|---|------------------|
| Mercury | 30 | |
| Nickel | 25 | |
| Nitrate | 15 | |
| Nitrite | 20 | |
| Oxidisability | 50 | Note 8 |
| Pesticides | 30 | Note 9 |
| Polycyclic aromatic hydrocarbons | 30 | Note 10 |
| Selenium | 40 | |
| Sodium | 15 | |
| Sulphate | 15 | |
| Tetrachloroethene | 30 | Note 11 |
| Trichloroethene | 40 | Note 11 |
| Trihalomethanes: total | 40 | Note 10 |
| Total organic carbon | 30 | Note 12 |
| Turbidity | 30 | Note 13 |

TABLE 2

Minimum performance characteristics: trueness, precision and limit of detection

| <i>Parameter</i> | <i>Trueness</i> <i>(% of parametric value, except for pH) (Note 2)</i> | <i>Precision</i> <i>(% of parametric value, except for pH) (Note 3)</i> | <i>Limit of detection</i> <i>(% of parametric value, except for pH) (Note 4)</i> | <i>Notes(36)</i> |
|------------------|---|--|---|------------------|
| Aluminium | 10 | 10 | 10 | |
| Ammonium | 10 | 10 | 10 | |
| Antimony | 25 | 25 | 25 | |
| Arsenic | 10 | 10 | 10 | |
| Benzo(a)pyrene | 25 | 25 | 25 | |
| Benzene | 25 | 25 | 25 | |
| Boron | 10 | 10 | 10 | |

(35) Acrylamide, epichlorohydrin and vinyl chloride to be controlled by product specification.

(36) Acrylamide, epichlorohydrin and vinyl chloride to be controlled by product specification.

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| <i>Parameter</i> | <i>Trueness</i> <i>(% of parametric value, except for pH) (Note 2)</i> | <i>Precision</i> <i>(% of parametric value, except for pH) (Note 3)</i> | <i>Limit of detection</i> <i>(% of parametric value, except for pH) (Note 4)</i> | <i>Notes(36)</i> |
|------------------------------------|---|--|---|------------------|
| Bromate | 25 | 25 | 25 | |
| Cadmium | 10 | 10 | 10 | |
| Chloride | 10 | 10 | 10 | |
| Chromium | 10 | 10 | 10 | |
| Conductivity | 10 | 10 | 10 | |
| Copper | 10 | 10 | 10 | |
| Cyanide | 10 | 10 | 10 | Note 6 |
| 1,2-dichloroethane | 25 | 25 | 10 | |
| Fluoride | 10 | 10 | 10 | |
| Hydrogen ion concentration (in pH) | 0.2 | 0.2 | | Note 7 |
| Iron | 10 | 10 | 10 | |
| Lead | 10 | 10 | 10 | |
| Manganese | 10 | 10 | 10 | |
| Mercury | 20 | 10 | 20 | |
| Nickel | 10 | 10 | 10 | |
| Nitrate | 10 | 10 | 10 | |
| Nitrite | 10 | 10 | 10 | |
| Oxidisability | 25 | 25 | 25 | Note 8 |
| Pesticides | 25 | 25 | 25 | Note 9 |
| Polycyclic aromatic hydrocarbons | 25 | 25 | 25 | Note 10 |
| Selenium | 10 | 10 | 10 | |
| Sodium | 10 | 10 | 10 | |
| Sulphate | 10 | 10 | 10 | |
| Tetrachloroethene | 25 | 25 | 10 | Note 11 |
| Trichloroethene | 25 | 25 | 10 | Note 11 |
| Trihalomethanes: total | 25 | 25 | 10 | Note 10 |
| Turbidity | 25 | 25 | 25 | |

(36)

Acrylamide, epichlorohydrin and vinyl chloride to be controlled by product specification.

Notes to Table 1 and Table 2

Note 1: Uncertainty of measurement is a non-negative parameter characterising the dispersion of the quantity values being attributed to a measurand, based on the information used. The performance criterion for measurement uncertainty ($k = 2$) is the percentage of the parametric value stated in the table or better. Measurement uncertainty must be estimated at the level of the parametric value, unless otherwise specified.

Note 2: Trueness is a measure of systematic error, i.e. the difference between the mean value of the large number of repeated measurements and the true value. Further specifications are those set out in international standard ISO 5725 entitled “*Accuracy (trueness and precision) of measurement methods and results*”(37).

Note 3: Precision is a measure of random error and is usually expressed as the standard deviation (within and between batches) of the spread of results from the mean. Acceptable precision is twice the relative standard deviation. This term is further specified in international standard ISO 5725 entitled partly “*Accuracy (trueness and precision) of measurement methods and results*”.

Note 4: Limit of detection is either three times the standard deviation within a batch of a natural sample containing a low concentration of the parameter, or five times the standard deviation of a blank sample (within a batch).

Note 5: If the value of uncertainty of measurement cannot be met, the best available technique should be selected (up to 60 %).

Note 6: The method determines total cyanide in all forms.

Note 7: Values for trueness, precision and uncertainty of measurement are expressed in pH units.

Note 8: Reference method European standard EN ISO 8467:1995 entitled “*Water quality - Determination of permanganate index (ISO 8467:1993)*”(38).

Note 9: The performance characteristics for individual pesticides are given as an indication. Values for the uncertainty of measurement as low as 30 % can be achieved for several pesticides, higher values up to 80 % may be allowed for a number of pesticides.

Note 10: The performance characteristics apply to individual substances, specified at 25 % of the parametric value in Table B.

Note 11: The performance characteristics apply to individual substances, specified at 50 % of the parametric value in Table B.

Note 12: The uncertainty of measurement should be estimated at the level of 3 mg/l of the total organic carbon in accordance with European standard EN 1484:1997 entitled “*Water analysis - Guidelines for the determination of total organic carbon and dissolved organic carbon*”(39).

Note 13: The uncertainty of measurement must be estimated at the level of 1.0 nephelometric turbidity units in accordance with European standard EN ISO 7027-1:2016 entitled “*Water quality - Determination of turbidity - Part 1: Quantitative methods (ISO 7027-1:2016)*”(40).

(37) This standard has been approved by the International Organization for Standardization (ISO). Under reference BS ISO 5725-1 to BS ISO 5725-6, these are published as UK standards by the British Standards Institution.

(38) This standard was approved by the European Committee for Standardization (CEN) on 3rd November 1994. Under reference EN ISO 8467:1995, it is published as a UK standard by the British Standards Institution (ISBN 0 580 23435 5).

(39) This standard was approved by the European Committee for Standardization (CEN) on 6th April 1997. Under reference BS EN 1484:1997, it is published as a UK standard by the British Standards Institution (ISBN 0 580 28372 0).

(40) This standard was approved by the European Committee for Standardization (CEN) on 15th April 2016. Under reference BS EN ISO 7027-1:2016, it is published as a UK standard by the British Standards Institution (ISBN 978 0 580 81961 2).

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PART C

Indicative dose

For each parameter in Table 3, the method of analysis used must be capable of measuring activity concentrations with at least the limit of detection specified for that parameter in the second column of that table.

TABLE 3

Minimum performance characteristics: limit of detection

| <i>Parameter</i> | <i>Limit of detection (in Bq/l) (Notes 1 and 2)</i> | <i>Notes</i> |
|----------------------|---|--------------|
| Tritium | 10 | Note 3 |
| Radon | 10 | Note 3 |
| gross alpha activity | 0.04 | Note 4 |
| gross beta activity | 0.4 | Note 4 |
| U-238 | 0.02 | |
| U-234 | 0.02 | |
| Ra-226 | 0.04 | |
| Ra-228 | 0.02 | Note 5 |
| Pb-210 | 0.02 | |
| Po-210 | 0.01 | |
| C-14 | 20 | |
| Sr-90 | 0.4 | |
| Pu-239 / Pu-240 | 0.04 | |
| Am-241 | 0.06 | |
| Co-60 | 0.5 | |
| Cs-134 | 0.5 | |
| Cs-137 | 0.5 | |
| I-131 | 0.5 | |

Notes to Table 3

Note 1: The limit of detection must be calculated in accordance with the international standard ISO 11929:2010 entitled “*Determination of the characteristic limits (decision threshold, detection limit and limits of the confidence interval) for measurements of ionising radiation - Fundamentals and application*”(41), with probabilities of errors of 1st and 2nd kind of 0.05 each.

Note 2: Measurement uncertainties must be calculated and reported as complete standard uncertainties, or as expanded standard uncertainties with an expansion factor of 1.96, in accordance

(41) This standard has been approved by the International Organization for Standardization (ISO). Under reference BS ISO 11929:2010, it is published as a UK standard by the British Standards Institution (ISBN 978 0 580 59044 3).

with international standard ISO/IEC Guide 98-3:2008 entitled “*Guide to the expression of uncertainty in measurement*”(42).

Note 3: The limit of detection for tritium and for radon is 10% of the corresponding parametric value for the parameter.

Note 4: The limit of detection for gross alpha activity and gross beta activities is 40% of the screening values of 0.1 Bq/l and 1.0 Bq/l respectively.

Note 5: This limit of detection applies only to initial screening for indicative dose for a new water source. If initial checking indicates that it is unlikely that Ra-228 exceeds 20% of the derived concentration, the limit of detection may be increased to 0.08 Bq/l for routine Ra-228 nuclide specific measurements, until a subsequent re-check is required.

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;

(42) This standard has been approved by the International Organization for Standardization (ISO). Under reference ISO/IEC Guide 98-3:2008 Ed 1, it is published as a UK standard by the British Standards Institution.

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- (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).

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.

SCHEDULE 6

Regulations 3(1), 30,33(1) and 34(1)

REMEDIATION NOTICES

Power to serve remediation notice

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

- (a) poses a potential danger to human health;
- (b) has failed to meet one or more of the water quality standards and the failure is likely to recur; or
- (c) is failing to meet one or more of the water quality standards and the failure is likely to continue or to recur or both,

the enforcing authority may serve a remediation notice on a person who is, in relation to the supply of water, a relevant person.

(2) In considering whether to serve remediation notice the enforcing authority may consult—

- (a) the local authority for any area affected by the supply of water; and
- (b) the Health Board for any such area.

(3) A remediation notice must specify—

- (a) the supply of water to which it relates;
- (b) the enforcing authority's reasons for believing (as the case may be) that the supply of water—
 - (i) poses a potential danger to human health;
 - (ii) has failed to meet one or more of the water quality standards and the failure is likely to recur; or
 - (iii) is failing to meet one or more of the water quality standards and the failure is likely to continue or to recur or both;
- (c) the steps which the enforcing authority requires the person to take for the purposes of—
 - (i) protecting human health (including, where appropriate, action to prohibit the supply of water or to restrict its use, or to provide an alternative supply of water);
 - (ii) restoring the quality of the water supplied, or to be supplied, so that it meets (and continues to meet) the water quality standards; or
 - (iii) protecting the quality of the water supplied, or to be supplied, (including its source) so that it meets (and continues to meet) the water quality standards; and
- (d) the date on which the notice is to take effect.

(4) A remediation notice may specify different dates by which different steps specified under sub-paragraph (3)(c) must be completed.

(5) The date referred to in sub-paragraph (3)(d) must be no earlier than the day following the last day on which an appeal may be brought under paragraph 2(1).

(6) The enforcing authority must—

- (a) send a copy of the remediation notice to the Drinking Water Quality Regulator for Scotland and to any local authority or Health Board consulted by the enforcing authority under sub-paragraph (2); and

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- (b) arrange for the notice to be published in such manner as the enforcing authority thinks appropriate for bringing it to the attention of persons affected, or who may be affected, by the supply of water.

Right of appeal against remediation notice

2.—(1) A person on whom a remediation notice has been served may, within a period of 14 days beginning with the date of service, appeal to the sheriff against the notice.

(2) Where an appeal is brought under sub-paragraph (1) the remediation notice is of no effect until the appeal is withdrawn or finally determined.

(3) On an appeal under sub-paragraph (1) the sheriff may make such order as the sheriff thinks fit.

(4) The decision of the sheriff on such an appeal is final.

(5) Where a person has taken the steps required by a remediation notice, the enforcing authority must publish (or arrange for the publication of) information to this effect, in such a manner as the enforcing authority thinks appropriate for bringing it to the attention of persons affected, or who may have been affected, by the supply of water.

Failure to comply with remediation notice

3.—(1) This paragraph applies where, in relation to a remediation notice, a person fails to complete a step specified under paragraph 1(3)(c) by a date specified in relation to that step under paragraph 1(4) (or by such later date as the enforcing authority may have substituted under regulation 33(1)(b)).

(2) Where this paragraph applies, the enforcing authority may—

(a) enter any premises and carry out the work necessary to complete the step; 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.

(3) The expenses which may be recovered under sub-paragraph (2)(b) include such proportion of the enforcing authority's administrative expenses (including expenses incurred in establishing any of the matters referred to in paragraph 1(1)(a) to (c) and in connection with the remediation notice) as the enforcing authority considers appropriate.

Offences in relation to remediation notice

4.—(1) A person commits an offence if the person fails to do anything which a remediation 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 a person intentionally obstructs a person acting in the exercise of any power conferred by paragraph 3(2)(a).

(3) A person who commits an offence under sub-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.

SCHEDULE 7

Regulations 3(1), 31,33(1) and 34(1)

ENFORCEMENT NOTICES

Power to serve enforcement notice

1.—(1) Where the enforcing authority reasonably believes, in respect of a supply of water to a point of compliance in its area—

- (a) that a person has contravened a requirement of these Regulations and the contravention is likely to recur; or
- (b) that a person is contravening a requirement of these Regulations and the contravention is likely to continue or to recur or both,

and (in either case) that the person is not taking appropriate steps for the purpose of rectifying the contravention or (as the case may be) preventing its recurrence, the enforcing authority may serve on the person an enforcement notice.

(2) In considering whether to serve an enforcement notice the enforcing authority may consult—

- (a) the local authority for any area affected by the contravention; and
- (b) the Health Board for any such area.

(3) An enforcement notice must specify—

- (a) the contravention to which it relates;
- (b) the enforcing authority's reasons for believing (as the case may be) that the contravention—
 - (i) has occurred and is likely to recur; or
 - (ii) is occurring and is likely to continue or to recur or both;
- (c) the date by which the person is required to rectify the contravention or (as the case may be) take steps to prevent its recurrence;
- (d) any particular steps which the enforcing authority requires the person to take for that purpose; and
- (e) the date on which the notice is to take effect.

(4) An enforcement notice may specify different dates by which different steps specified under sub-paragraph (3)(d) must be completed.

(5) The date referred to in paragraph (3)(e) must be no earlier than the day following the last day on which an appeal may be brought under paragraph 2(1).

(6) The enforcing authority must—

- (a) send a copy of an enforcement notice to the Drinking Water Quality Regulator for Scotland and to any local authority or Health Board consulted by the enforcing authority under sub-paragraph (2); and
- (b) arrange for the notice to be published in such manner as the enforcing authority thinks appropriate for bringing it to the attention of persons affected, or who may be affected, by the contravention.

(7) In sub-paragraph (1), the references to “person” do not include—

- (a) an enforcing authority;
- (b) the Drinking Water Quality Regulator for Scotland; or
- (c) the Scottish Ministers.

Right of appeal against enforcement notice

2.—(1) A person on whom an enforcement notice has been served may, within a period of 14 days beginning with the date of service, appeal to the sheriff against the notice.

(2) Where an appeal is brought under sub-paragraph (1) the enforcement notice is of no effect until the appeal is withdrawn or finally determined.

(3) On an appeal under sub-paragraph (1) the sheriff may make such order as the sheriff thinks fit.

(4) The decision of the sheriff on such an appeal is final.

(5) Where a person has rectified the contravention specified in an enforcement notice, the enforcing authority must publish (or arrange for the publication of) information to this effect, in such a manner as the enforcing authority thinks appropriate for bringing it to the attention of persons affected, or who may have been affected, by the contravention.

Failure to comply with enforcement notice

3.—(1) This paragraph applies where, in relation to an enforcement notice, a person—

(a) fails to rectify, or (as the case may be) to take steps to prevent the recurrence of, a contravention specified in the notice by the date specified in relation to the contravention under paragraph 1(3)(c); or

(b) fails to complete a step specified under paragraph 1(3)(d) by a date specified in relation to that step under paragraph 1(4),

(or, in either case, by such later date as the enforcing authority may have substituted under regulation 33(1)(b)).

(2) Where this paragraph applies, the enforcing authority may—

(a) enter any premises and carry out the work necessary to rectify or prevent the recurrence of the contravention or, as the case may be, to complete the step; 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.

(3) The expenses which may be recovered under sub-paragraph (2)(b) include such proportion of the enforcing authority's administrative expenses (including expenses incurred in establishing the contravention and in connection with the enforcement notice) as the enforcing authority considers appropriate.

Offences in relation to enforcement notice

4.—(1) A person commits an offence if the person fails to do anything which an enforcement 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 a person acting in the exercise of any power conferred by paragraph 3(2)(a).

(3) A person who commits an offence under sub-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.

SCHEDULE 8

Regulation 34

POWERS OF ENTRY ETC.: FURTHER PROVISION

Notice of entry

1.—(1) Sub-paragraphs (2) to (4) apply to the powers conferred on an enforcing authority by virtue of—

- (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),

(in this schedule referred to as “the relevant provisions”).

(2) An enforcing authority is entitled to demand entry into any premises as of right by virtue of the relevant provisions only at a reasonable time, except in an emergency.

(3) Unless the premises are premises (other than a dwelling) of a water supplier, the enforcing authority must give 24 hours’ notice of the intended entry to the occupier of the premises.

(4) The powers are exercisable on behalf of an enforcing authority by any person designated in writing by the enforcing authority as a person who may exercise the powers on its behalf.

Warrant to exercise right or power

2.—(1) If a sheriff or a justice of the peace is satisfied, by evidence on oath, that—

- (a) there are reasonable grounds for the exercise in relation to any premises of a power conferred by the relevant provisions; and
- (b) one or more of the conditions specified in sub-paragraph (2) is fulfilled in relation to those premises,

the sheriff or justice may by warrant authorise the enforcing authority to exercise the power in relation to those premises in accordance with the warrant and, if need be, by force.

(2) The conditions mentioned in sub-paragraph (1) are—

- (a) that the exercise of the power in relation to the premises has been refused;
- (b) that such a refusal is reasonably apprehended;
- (c) that the premises are unoccupied;
- (d) that the occupier is temporarily absent from the premises;
- (e) that the case is one of urgency;
- (f) that an application for admission to the premises would defeat the object of the proposed entry.

(3) A sheriff or justice must not issue a warrant under this schedule by virtue only of being satisfied that a condition specified in sub-paragraph (2)(a) or (b) is fulfilled unless the sheriff or justice is also satisfied—

- (a) that notice of the intention to apply for the warrant has been given to the occupier of the premises, or
- (b) that the giving of such notice would defeat the object of the proposed entry.

(4) A warrant under this schedule continues in force until the purposes for which the warrant was issued have been fulfilled.

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Evidence of authority

3. A person entitled to exercise any power conferred by the relevant provisions must, if required to do so, produce written evidence of that entitlement.

Supplementary powers

4. A person entitled to enter any premises by virtue of any power conferred by the relevant provisions is entitled, subject in the case of a power exercisable under a warrant to the terms of the warrant, to take on to the premises such other persons and such equipment as may be necessary.

Duty to secure premises

5. A person who enters any premises in the exercise of any power conferred by the relevant provisions must leave the premises as effectually secured against trespassers as that person found them.

Compensation

6.—(1) Where any person (“the person”) exercises, on behalf of an enforcing authority, any power conferred by the relevant provisions, the enforcing authority must make full compensation to any other person who has sustained loss or damage by reason of—

- (a) the exercise by the person of that power or of any power to take any person or equipment on to the premises in relation to which the power is exercised; or
- (b) the performance of, or failure of the person to perform, the duty imposed by paragraph 5.

(2) Compensation is not payable by virtue of sub-paragraph (1) in respect of any loss or damage if the loss or damage—

- (a) is attributable to the default of the person who sustained it; or
- (b) is loss or damage in respect of which compensation is payable by virtue of any other enactment.

(3) Any dispute as to a person’s entitlement to compensation under this paragraph, or as to the amount of any such compensation, is to be referred to the arbitration of a single arbiter appointed by agreement between the Scottish Ministers and the person who claims to have sustained the loss or damage or, in default of agreement, by the President of the Lands Tribunal for Scotland.

Commercially confidential information

7.—(1) A person who enters any premises in the exercise of a power conferred by these Regulations commits an offence if the person makes use of or discloses any information obtained by the person on those premises with regard to any manufacturing process or trade secret.

(2) A person who commits an offence under sub-paragraph (1) is liable—

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

Interpretation

8. For the purposes of paragraphs 5 and 6 a person enters any premises in the exercise of a power conferred by the relevant provisions despite a failure (whether by virtue of the waiver of the requirement by the occupier of the premises or otherwise) to comply with—

- (a) any requirement to enter those premises at a reasonable time or after giving notice of intended entry; or

- (b) the requirement imposed by paragraph 3.

SCHEDULE 9

Regulation 35

RECOVERY OF CERTAIN EXPENSES

Maximum charges

1.—(1) Subject to sub-paragraph (2), an enforcing authority may charge a person for expenses reasonably incurred by it under these Regulations in relation to a supply of water, as follows:—

- (a) for collecting water samples;
- (b) for the analysis of water samples;
- (c) for carrying out a risk assessment; and
- (d) for reviewing a risk assessment.

(2) An enforcing authority may not charge for the collection and analysis of a water sample which was undertaken to confirm or clarify the results of an analysis of a previous water sample.

(3) If, in relation to the supply of water, more than one person may be charged, the enforcing authority must, in determining who is to be charged and any apportionment of that charge, have regard to the terms (if any) on which the water is supplied and the purposes for which it is used.

Recovery of sums charged

2. The enforcing authority may recover as a civil debt any sum charged by the enforcing authority in accordance with paragraph 1.

SCHEDULE 10

Regulation 45

CHANGES TO OTHER ENACTMENTS

Amendment of the Water (Scotland) Act 1980

1.—(1) The Water (Scotland) Act 1980(43) is amended in accordance with sub-paragraphs (2) to (6).

(2) Omit section 76FA (domestic distribution failures where water is supplied to the public by private supply).

(3) In section 76FB (remedial powers of local authorities where domestic distribution failure affects supply to public)—

- (a) in subsection (1), omit paragraph (a);
- (b) in subsection (2), omit “the relevant water quality issue or, as the case may be,”;
- (c) in subsection (3)(a), omit “the relevant water quality issue or, as the case may be,”;
- (d) in subsection (4), omit “a relevant water quality issue or” in both places where it occurs;
- (e) in subsection (8), omit “a relevant water quality issue or”; and

(43) 1980 c.45; sections 76FA, 76FB and subsection (1A) of section 76G were inserted by S.S.I. 2010/95 and amended by S.S.I. 2014/364, section 76HA was inserted by S.S.I. 2006/297 and amended by S.S.I. 2010/95, and section 76L was inserted by section 168 and schedule 22 of the Water Act 1989 (c.15).

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- (f) in subsection (9)—
 - (i) at the end of paragraph (a), insert “or”;
 - (ii) at the end of paragraph (b), for “;” substitute “.”; and
 - (iii) omit paragraphs (c) and (d).
- (4) In section 76G (remedial powers of local authorities in relation to private supplies), omit subsection (1A).
- (5) In section 76HA (application of sections 76G and 76H to certain private supplies)—
 - (a) in subsection (1), for “private water supply to which the Private Water Supplies (Scotland) Regulations 2006 (S.S.I. 2006/209)” substitute “supply of water to which the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017”; and
 - (b) in subsection (2)—
 - (i) for paragraph (a) substitute—
 - “(a) in subsection (1), for “water for domestic or food production purposes” substitute “water intended for human consumption (within the meaning of the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017)”;
 - (ii) omit paragraphs (ba) to (d) and (f); and
 - (iii) in paragraph (e), in the text to be substituted—
 - (aa) for “the relevant person” substitute “a “relevant person””; and
 - (bb) for the words from “of water” to the end, substitute “which is a supply of water to which the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 apply, has the same meaning as it has in those Regulations.”.
- (6) In section 76L (interpretation etc. of Part VIA)—
 - (a) for the definition of “domestic distribution system” substitute—
 - ““domestic distribution system” has the same meaning as it has in the Public Water Supplies (Scotland) Regulations 2014;”; and
 - (b) omit the definition of “relevant water quality issue”.

Amendment of the Private Water Supplies (Scotland) Regulations 2006

- 2. In the Private Water Supplies (Scotland) Regulations 2006⁽⁴⁴⁾—
 - (a) after regulation 3(2) insert—
 - “(3) These regulations do not apply to a Type A supply.”;
 - (b) in regulation 7(4), for “(2)” substitute “(3)”;
 - (c) in regulation 29(3), for “7(5)” substitute “7(4)”;
 - (d) omit—
 - (i) regulation 6;
 - (ii) regulation 7(1)(a), (2), (4)(b) and (5);
 - (iii) regulations 8 to 26;
 - (iv) in regulation 31(2)(a), “or (5)”;
 - (v) regulation 32(b);

⁽⁴⁴⁾ S.S.I. 2006/209, as amended by S.S.I. 2010/95, S.S.I. 2014/364, S.S.I. 2015/346 and S.S.I. 2017/282.

- (vi) regulation 33(1)(a);
- (vii) in regulation 33(2), “25 or”;
- (viii) in regulation 33(3), “22(6)(a) or”;
- (ix) regulation 34(1)(a)(i) and (ii), (g) and (l);
- (x) regulation 36;
- (xi) in schedule 2, Table A and Table B;
- (xii) schedule 2A;
- (xiii) schedule 3;
- (xiv) in schedule 4, in paragraph (1), “16 and”; and
- (xv) schedule 5A.

Amendment of the Private Water Supplies (Grants) (Scotland) Regulations 2006

3. In the Private Water Supplies (Grants) (Scotland) Regulations 2006⁽⁴⁵⁾—

- (a) in regulation 2(1)—
 - (i) after the definition of “the 2006 Regulations” insert—

““the 2017 Regulations” means the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017;”;
 - (ii) after the definition of “estimated expenditure” insert—

““private water supply” has the same meaning as it has in subsection (2) of section 47 (power to provide funds for private water supplies) of the Local Government in Scotland Act 2003⁽⁴⁶⁾”;
- (b) in regulation 3(1), after “(2)” insert “or (3)”;
- (c) after regulation 3(2) insert—

“(3) Subject to regulation 10(a) and (b), an eligible person is a person who is a “relevant person” within the meaning of the 2017 Regulations in relation to a private water supply—

 - (a) in a case where—
 - (i) water introduced into, and supplied through and from, the private water supply system which is used, or intended to be used, to provide the supply of water has been risk assessed in accordance with Part 3 of the 2017 Regulations; and
 - (ii) the risk assessment (as updated, where applicable) establishes that the water—
 - (aa) poses a potential danger to human health;
 - (bb) has failed to meet one or more of the water quality standards and the failure is likely to recur; or
 - (cc) is failing to meet one or more of the water quality standards and the failure is likely to continue or to recur or both; or
 - (b) in a case where the private water supply is both—
 - (i) a “supply of water in pipes” within the meaning of the 2017 Regulations; and

⁽⁴⁵⁾ S.S.I. 2006/210, as amended by S.S.I. 2014/364.

⁽⁴⁶⁾ 2003 asp 1.

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- (ii) the subject of one or more of the following:—
- (aa) a derogation granted under schedule 5 of the 2017 Regulations;
 - (bb) a remediation notice, an enforcement notice or an emergency notice served under the 2017 Regulations; or
 - (cc) a notice served under section 76G of the 1980 Act.”; and
- (d) in regulation 4(3), after “3(2)(b)” insert “or, as the case may be, 3(3)”;
- (e) in regulation 5, after “2006 Regulations” insert “or, as the case may be, the 2017 Regulations”; and
- (f) in regulation 9(4)(a), after “Part VI or Part VIII of the 2006 Regulations” insert “or, in a case where the application is made by or on behalf of a person who is an eligible person by virtue of regulation 3(3)(a), information showing that the risk assessment referred to in regulation 3(3)(a) has been carried out and a summary of the results of the risk assessment (as updated, where applicable)”.

Revocations

4. The following provisions are revoked:—
- (a) regulations 3, 4 and 16 to 19 and paragraph (a) of regulation 5 of the Water Quality (Scotland) Regulations 2010(47);
 - (b) paragraphs (b) and (c) of regulation 48 of the Public Water Supplies (Scotland) Regulations 2014(48); and
 - (c) regulations 5 to 7 and 9 to 12 of the Private and Public Water Supplies (Miscellaneous Amendments) (Scotland) Regulations 2015(49).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations aim to protect human health from the adverse effects of any contamination of water intended for human consumption by ensuring that the water meets water quality standards.

Except where stated otherwise, these Regulations do not apply in relation to the categories of water intended for human consumption specified in sub-paragraphs (a) to (h) of regulation 2(1). In particular, these Regulations do not apply in relation to (among other things)—

- water which is regulated by the Public Water Supplies (Scotland) Regulations 2014(50);
- water which is exempt by virtue of regulation 2(4); and
- water which is regulated by specified provisions of the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007(51).

(47) S.S.I. 2010/95.

(48) S.S.I. 2014/364, as amended by S.S.I. 2015/100, S.S.I. 2015/346 and S.S.I. 2017/281.

(49) S.S.I. 2015/346.

(50) S.S.I. 2014/364, as amended by S.S.I. 2015/100, S.S.I. 2015/346 and S.S.I. 2017/281.

(51) 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.

These Regulations replace (and partly re-enact with modifications) the provisions of the Private Water Supplies (Scotland) Regulations 2006⁽⁵²⁾ so far as they applied to a ‘Type A supply’, pursuant to the further implementation of—

- Council Directive 98/83/EC on the quality of water intended for human consumption⁽⁵³⁾ including, in particular, the amendments made by Commission Directive (EU) 2015/1787 amending Annexes II and III to Council Directive 98/83/EC on the quality of water intended for human consumption⁽⁵⁴⁾; and
- Council Directive 2013/51/EURATOM laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption⁽⁵⁵⁾.

Except where the contrary intention appears, in so far as a thing done (such as a sample taken or a failure investigated) or having effect as if so done under a provision of the Private Water Supplies (Scotland) Regulations 2006 could have been done under the re-enacted provision (modified or not), that thing has effect as if done under that re-enacted provision⁽⁵⁶⁾.

Part 1 makes general provision for citation, commencement, extent, application, interpretation, etc.

Part 2 makes provision in relation to a register of supply systems, etc.

Part 3 makes provision in relation to the risk assessment of water supplies.

Part 4 makes provision in relation to water quality standards and duties.

Part 5 makes provision in relation to monitoring and analysis.

Part 6 makes provision in relation to investigation and remedial action.

Part 7 makes provision in relation to information and reporting.

Part 8 makes provision in relation to enforcement.

Part 9 makes provision in relation to offences.

Part 10 makes provision in relation to other enactments.

A business and regulatory impact assessment has been prepared for these Regulations. A copy of this may be obtained from the Scottish Government, Victoria Quay, Leith, Edinburgh EH6 6QQ and online at www.legislation.gov.uk.

⁽⁵²⁾ S.S.I. 2006/209, as amended by S.S.I. 2010/95, S.S.I. 2014/364, S.S.I. 2015/346 and S.S.I. 2017/282.

⁽⁵³⁾ OJ L 330, 5.12.98, p.32, as amended by Corrigendum (OJ L 111, 20.4.2001, p.31), Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p.1), Regulation (EC) No 596/2009 (OJ L 188, 18.7.2009, p.14) and Commission Directive (EU) 2015/1787 (OJ L 260, 7.10.2015, p.6).

⁽⁵⁴⁾ OJ L 260, 7.10.2015, p.6.

⁽⁵⁵⁾ OJ L 296, 7.11.2013, p.12.

⁽⁵⁶⁾ This transitional provision applies by virtue of section 19(5) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).