
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

**The Public Water Supplies (Scotland)
Amendment Regulations 2022**

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Public Water Supplies (Scotland) Amendment Regulations 2022 and come into force on 1 January 2023.

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

Amendment of the 2014 Regulations

2. The 2014 Regulations are amended in accordance with regulations 3 to 18.
3. In regulation 2(1) (interpretation)—
 - (a) in the definition of “parameter”, omit “, Table 2”,
 - (b) in the definition of “prescribed concentration or value”, omit “or granted by the European Commission pursuant to a request under regulation 25(7)”,
 - (c) in the definition of “water quality standards”, omit “or granted pursuant to a request under regulation 25(7)”.
4. In regulation 6(7) (monitoring programmes), for “reduce the level of monitoring required by the programme” substitute “remove or reduce the monitoring of any parameter, micro-organism, parasite or substance required by that programme”.
5. In regulation 11(1)(b)(iii) (sampling at treatment works), for “(item 19)” substitute “(item 24)”.
6. In regulation 13 (sampling: water supplied by tanker)—
 - (a) in paragraph (1), for sub-paragraphs (a) and (b) substitute—
 - “(a) when the water is put into that tanker,
 - (b) 24 hours after the commencement of the distribution from that tanker, and
 - (c) every 24 hours from then on until the distribution is discontinued.”,
 - (b) after paragraph (3), insert—

“(4) This regulation does not apply where the distribution of water in any part of a water supply zone is by mobile tanker.”.
7. After regulation 13, insert—

“Sampling: water supplied by mobile tanker

13A.—(1) Where the distribution of water in any part of a water supply zone is by mobile tanker and is (or is likely to be) an intermittent short-term supply, samples of water from

(1) S.S.I. 2014/364, amended by S.S.I. 2015/100, S.S.I. 2015/346, S.S.I. 2017/281, S.S.I. 2017/282 and S.S.I. 2019/336.

each mobile tanker from which water is to be distributed must be taken in accordance with paragraphs (2) and (3).

(2) Samples must—

(a) be taken—

(i) when the water is put into the mobile tanker, and

(ii) immediately before the commencement of any distribution of water from that tanker, and

(b) be analysed for compliance with residual disinfectant (item 4) in Table 4.

(3) Unless paragraph (4) applies, a sample must be taken when the water is put into the mobile tanker and the sample must be analysed for compliance with *Escherichia coli* (item 2) and Coliform bacteria (item 3) in Table A.

(4) Where water is put into the mobile tanker from the same place on at least one other occasion within a period of 24 hours from the sample taken under sub-paragraph (3), a sample is not required to be taken on the second or any subsequent occasion that water is put into that tanker within that period.

(5) In regulation 13 and this regulation, “mobile tanker” means a container used to distribute water for human consumption purposes that has been treated and has been transported from one part of the public water supply system to another.”.

8. In regulation 20(1)(b) (Scottish Water to restore water quality)—

(a) in head (i), for “(item 10)” substitute “(item 13)”,

(b) in head (ii), for “(item 15)” substitute “(item 19)”.

9. In regulation 24(4)(c) (authorisation of temporary supply of water that is not wholesome), for “the Scottish Association of Citizens Advice Bureaux” substitute “Consumer Scotland(2)”.

10. In regulation 25 (authorisations: terms and conditions), omit paragraphs (7) and (8).

11. In regulation 26 (authorisations: other limitations), omit “, or a request under regulation 25(7),”.

12. In regulation 27 (authorisations: publicity), omit “or granted in accordance with Article 9(2) of the Directive”.

13. In regulation 28(2)(d) (authorisations: revocation and modification) for “the Scottish Association of Citizens Advice Bureaux” substitute “Consumer Scotland”.

14. In regulation 31 (procedure following risk assessment and prohibition of supply)—

(a) in paragraphs (1), (2) and (5), for “Scottish Ministers”, in each place where it appears, substitute “Drinking Water Quality Regulator for Scotland”,

(b) in paragraph (3)—

(i) in the introduction—

(aa) for “Scottish Ministers have” substitute “Drinking Water Quality Regulator for Scotland has”,

(bb) for “they” substitute “the Regulator”,

(ii) in sub-paragraphs (a) and (b), for “they consider” substitute “the Regulator considers”,

(iii) in sub-paragraph (e)—

(2) Consumer Scotland is established by section 1 of the Consumer Scotland Act 2020 (asp 11).

(aa) for “Scottish Ministers” substitute “Drinking Water Quality Regulator for Scotland”,

(bb) for “they” substitute “the Regulator”.

15. In regulation 33(2)(b) (application and introduction of substances and products)—

(a) omit “of an EEA state or Turkey”,

(b) in head (i), omit from “; and” to the end.

16. In schedule 1 (prescribed concentrations and values)—

(a) for Table B (chemical parameters) (and the notes to that table) substitute the table contained in schedule 1 of these Regulations,

(b) for Table C (indicator parameters) (and the notes to that table) substitute the table contained in schedule 2 of these Regulations,

(c) after Table C (and the notes to that table) (as inserted by paragraph (b))—

(i) before the definition of “NTU” insert—

““HAAs” means the sum of the following haloacetic acids: monochloro-, dichloro-, and trichloro-acetic acid, and mono- and dibromo-acetic acid,”

(ii) in the definition of “Pesticide”—

(aa) omit “, molluscicide”,

(bb) for “the relevant metabolites” to the end, insert “their metabolites as defined in point (32) of Article 3 of Regulation (EC) No 1107/2009 of the European Parliament and of the Council(3) that are relevant metabolites”,

(iii) after the definition of “Pesticides: Total”, insert—

““relevant metabolite” means a pesticide metabolite that has intrinsic properties comparable to those of the parent substance in terms of its pesticide target activity or that either itself or its transformation products generate a health risk for consumers,”

“Sum of PFAS” means the sum of the following perfluoroalkyl substances considered a concern as regards water intended for human consumption—

- Perfluorobutanoic acid,
- Perfluoropentanoic acid,
- Perfluorohexanoic acid,
- Perfluoroheptanoic acid,
- Perfluorooctanoic acid,
- Perfluorononanoic acid,
- Perfluorodecanoic acid,
- Perfluoroundecanoic acid,
- Perfluorododecanoic acid,
- Perfluorotridecanoic acid,
- Perfluorobutane sulfonic acid,
- Perfluoropentane sulfonic acid,
- Perfluorohexane sulfonic acid,

(3) EUR 1107/2009, as relevantly amended by EUR 2019/1009 and S.I. 2019/556.

- Perfluoroheptane sulfonic acid,
- Perfluorooctane sulfonic acid,
- Perfluorononane sulfonic acid,
- Perfluorodecane sulfonic acid,
- Perfluoroundecane sulfonic acid,
- Perfluorododecane sulfonic acid,
- Perfluorotridecane sulfonic acid.”.

17.—(1) Schedule 1A (monitoring: minimum requirements) is amended in accordance with paragraphs (2) to (5).

(2) In Part A—

(a) after paragraph 2, insert—

“2A.—(1) Each monitoring programme must include an operational monitoring programme that—

- (a) takes into account any parameter, or micro-organism, parasite or substance, identified as relevant—
 - (i) by virtue of regulation 5(2), or
 - (ii) through a risk assessment under regulation 30,
- (b) where appropriate, includes monitoring of parameters in accordance with subparagraphs (2) and (3), and
- (c) confirms the effectiveness of all 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).

(2) Except where turbidity is caused by iron and manganese in groundwater sources, the operational monitoring programme must include monitoring of the parameter turbidity at the treatment works in accordance with the reference values and frequencies in the following table—

Operational parameter	Reference value	Minimum frequency of sampling and analysis		
Turbidity at the treatment works	0.3 NTU in 95% of samples and none to exceed 1 NTU	<i>Volume (m³) of water distributed or produced each day within a supply zone</i>		
		> 0	≤ 1,000	Weekly
		> 1,000	≤ 10,000	Daily
		> 10,000		Continuous

(3) The operational monitoring programme must include monitoring of somatic coliphages in raw water in accordance with the following table—

Operational parameter	Reference value	Unit	Notes
Somatic coliphages	50 (for raw water)	PFU/100ml	This parameter must be measured if the risk assessment under regulation 30 indicates that it is appropriate to do so.

Operational parameter	Reference value	Unit	Notes
			If it is found in raw water at concentrations > 50 PFU/100ml, it must be analysed after steps of the treatment train in order to determine log removal by the barriers in place and to assess whether the risk of a breakthrough of pathogenic viruses is sufficiently under control.

(4) In this paragraph—

“NTU” means Nephelometric Turbidity Unit, and

“PFU” means Plaque Forming Unit.”,

(b) in paragraph 3, for “5” substitute “6”.

(3) In Part B, in paragraph 2(a), after “*Escherischia coli*,”, insert “enterococci”.

(4) In Part C—

(a) in paragraph 2—

(i) omit “or” following sub-paragraph (b),

(ii) after sub-paragraph (c), insert—

“(d) a risk assessment has established that raw water—

(i) in the catchment area used to abstract water for human consumption purposes, or

(ii) as a result of abstraction through the public water supply system, contains a parameter at a concentration or value which would (whether in conjunction with another parameter in the water or otherwise) constitute a potential danger to human health, or

(e) a risk assessment has identified extension of the list of parameters and/or increase of the minimum sampling frequencies as the most appropriate means of mitigating a risk to human health.”,

(b) in paragraph 3—

(i) in sub-paragraph (a), after “*Escherischia coli*”, insert “and enterococci”,

(ii) in sub-paragraph (b), for heads (i) to (iv) substitute—

“(i) a risk assessment has established that the parameter to be removed from the list of parameters to be monitored under Part B of this schedule, or for which the minimum sampling frequencies are to be reduced, is not present or, as the case may be, is not likely to be present in raw water—

(aa) in the catchment area used to abstract water for human consumption purposes, and

(bb) as a result of abstraction through the public water supply system, at a concentration or value which would (whether in conjunction with another parameter in the water or otherwise) constitute a potential danger to human health,

(ii) where a parameter from the list of parameters to be monitored under Part B of this schedule can only occur as a result of the treatment technique or

disinfection method, that technique or method is not used by Scottish Water,
or

(iii) the specifications in paragraph 3A are complied with.”,

(c) after paragraph 3 insert—

“**3A.** The specifications are that—

- (a) 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,
- (b) 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 water supply zone must all be less than 60% of the prescribed concentration or value for the parameter,
- (c) 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 water supply zone must all be less than 30% of the prescribed concentration or value of the parameter,
- (d) 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, and
- (e) for a reduction in the minimum sampling frequency for a parameter under Part B of this schedule or removal of a parameter from the list of parameters to be monitored under that Part, the risk assessment confirms that no factor (that can be reasonably anticipated) is likely to cause deterioration of the quality of the water.

3B. Any parameter removed from the list of parameters to be monitored in Part B of this schedule under paragraph 3(b) must be monitored—

- (a) at least once every six years, and
- (b) in cases where—
 - (i) a new water source is integrated into the water supply chain (from the catchment area through abstraction, treatment and storage to distribution),
or
 - (ii) changes made to the water supply chain are expected to have a potentially adverse effect on the quality of water.”,

(d) in paragraph 4—

(i) for sub-paragraph (1), substitute—

“(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 or any such parameter may be removed from the list of parameters to be monitored under paragraph 3(b), only if the Drinking Water Quality Regulator for Scotland, by notice to Scottish Water, consents in accordance with sub-paragraph (2) to the reduction or removal, and that consent has not been revoked under sub-paragraph (4).”,

(ii) for sub-paragraph (2) substitute—

“(2) The Drinking Water Quality Regulator for Scotland may consent, under sub-paragraph (1), if the Regulator is satisfied that to do so would not compromise the quality of the water.”,

(iii) in sub-paragraphs (3) and (4), for “(2)(b)”, in each place it occurs, substitute “(1)”.

(5) In Part E, omit paragraph 1(4).

18.—(1) Schedule 3 (methods of analysis) is amended in accordance with paragraphs (2) to (4).

(2) After paragraph 1(2) insert—

“(3) For the purposes of assessing the equivalence of alternative methods with methods specified in this schedule, Scottish Water may use European standard EN ISO 17994:2014 entitled “*Water quality - Requirements for the comparison of the relative recovery of microorganisms by two quantitative methods*”(4), or European standard EN ISO 16140:2003 entitled “*Microbiology of food and animal feeding stuffs - Protocol for the validation of alternative methods*”(5), or any other similar internationally accepted protocols, to establish the equivalence of methods based on principles, other than culturing, which are beyond the scope of European Standard EN ISO 17994:2014.”.

(3) In paragraph 2 of Part A—

(a) omit sub-paragraphs (c) and (e),

(b) after sub-paragraph (f) insert—

“(g) for *somatic coliphages*, European Standard EN ISO 10705-2:2000 entitled “*Water quality — Detection and enumeration of bacteriophages — Part 2: Enumeration of somatic coliphages*”(6) and European Standard EN ISO 10705-3:2003 entitled “*Water quality — Detection and enumeration of bacteriophages — Part 3: Validation of methods for concentration of bacteriophages from water*”(7) can be used”.

(4) In Part B—

(a) in paragraph 1(1), for “Subject to paragraph 3, for” substitute “For”,

(b) omit paragraph 3,

(c) for Table 1 (minimum performance characteristic: uncertainty of measurement) and Table 2 (minimum performance characteristics: trueness, precision and limit of detection) and the notes to Table 1 and Table 2, substitute the table contained in schedule 3 of these Regulations.

St Andrew’s House,
Edinburgh
Date

Name
A member of the Scottish Government

(4) This standard was approved by the European Committee for Standardization (CEN) on 19th February 2014. Under reference BS EN ISO 17994:2014, it is published as a UK standard by the British Standards Institution (ISBN 0 580 43873 2).

(5) This standard was approved by the European Committee for Standardization (CEN) on 6th July 2002. Under reference BS EN ISO 16140:2003, it is published as a UK standard by the British Standards Institution (ISBN 978 0 580 67570 6).

(6) This standard was approved by the European Committee for Standardization (CEN) on 22nd June 2001. Under reference BS EN ISO 10705-2:2000, it is published as a UK standard by the British Standards Institution (ISBN 0 580 34695 1).

(7) This standard was approved by the European Committee for Standardization (CEN) on 30th October 2003. Under reference BS ISO 10705-3:2003, it is published as a UK standard by the British Standards Institution (ISBN 0 580 42830 3).