
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations supplement Part VIA of the Water (Scotland) Act 1980 (“the 1980 Act”); amend, for a limited period, the Water Supply (Water Quality) (Scotland) Regulations 1990 (“the 1990 Regulations”) and, on 25th December 2003, revoke and replace those Regulations. They are primarily concerned with the quality of water supplied in Scotland for drinking, washing, cooking and food preparation, and for food production, and with arrangements for the publication of information about water quality.

The Regulations are directed at the achievement of the objective set out in Article 2 of Council Directive 98/83/EC (O.J. No. L 330, 5.12.98, p.32) (“the 1998 Directive”), namely, to protect human health from the adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome and clean. In particular, effect is given in Part III of the Regulations to Articles 4 and 5 of the 1998 Directive which relate to the quality of water intended for human consumption and, in Part V, to Article 7 (monitoring) of that Directive.

Subject to the exceptions mentioned below, the Regulations come into force on 25th December 2003. Regulations 1 and 2 (which deal with commencement, extent and interpretation), regulation 36 (which introduces the amendments to the 1990 Regulations set out in Schedule 5) and regulation 37 (a transitional provision requiring the submission of programmes of work) come into force on 21st June 2001.

Regulation 3 (which deals with water supply zones) and regulation 38 (a transitional provision enabling applications to be made for authorisations) come into force on 1st June 2003.

Regulation 4 (which prescribes new standards of wholesomeness), regulations 17 to 24 (which deal with sampling) paragraphs (4) and (5) of regulation 26 (which deals with lead pipes) and paragraph (1) of regulation 39 (which revokes provisions of the 1990 Regulations superseded by regulations 4 and 17 to 24) come into force on 25th December 2003, when the 1998 Directive takes effect.

Part I of the Regulations (regulations 1 and 2) defines terms that are used in the Regulations.

Part II (regulation 3) requires water authorities to identify annually the areas (“water supply zones”) that are to be relevant for a particular year for the purposes of the application of the provisions of the Regulations. A water supply zone may not comprise an area in which the estimated population exceeds 100,000. Water authorities may not alter the boundaries of water supply zones during the year.

Part III (regulation 4) prescribes standards of wholesomeness in respect of water that is supplied by water authorities for cooking, drinking, food preparation and washing and other domestic purposes and to premises for food production purposes. These various purposes are referred to in the Regulations as “regulation 4(1) purposes”. In particular, regulation 4 provides that water is to be regarded as wholesome if it contains concentrations or values in respect of various properties, elements, organisms and substances that do not contravene prescribed maximum and, in some cases, minimum concentrations or values. Some of the prescribed maximum and minimum concentrations and values are specified in regulation 4, but most are included in Tables A and B which appear in Schedule 1. They include the values specified in Part A and B of Annex 1 to the 1998 Directive. There are also specifications for indicator parameters in Schedule 2.

Part IV (regulations 5 to 10) provides for the monitoring of water supplies by reference to the analysis of samples. Regulation 5 defines two monitoring regimes; “audit” monitoring and “check”

monitoring. Regulation 6 requires water authorities to take a minimum number of samples each year in respect of a variety of properties, elements, organisms and substances. It also makes special provision for monitoring supplies from tankers. Regulation 7 requires water authorities to select at random the consumers' taps from which samples are to be taken. Regulation 8 authorises the taking of samples from points other than consumers' taps ("supply points") and allows the Scottish Ministers to authorise other supply points. Regulation 9 deals with the number of samples to be taken. These are specified in Tables 1 and 2 in Schedule 3 to the Regulations, and are not less than those specified in Annex II to the 1998 Directive. Regulation 10 requires samples to be taken where water authorities have reason to believe that the quality of the water within their water supply zone has been adversely affected by the presence of certain elements, organisms or substances.

Part V (regulations 11 to 16) contains additional provisions relating to sampling. Regulations 13 and 14 require samples to be taken in respect of particular organisms and substances, at treatment works and at reservoirs which store treated water. Regulation 15 requires samples to be taken before water is supplied from new sources and from sources which have not recently been used. Regulation 16 prescribes requirements relating to the taking, handling, storage, transport and analysis of samples.

Part VI (regulations 17 to 24) provides for the investigation of every failure to satisfy a concentration, value or state prescribed by regulation 4 and for a report to be made to the Scottish Ministers. Where a failure relates to a Table B parameter, and certain other conditions are met, the Scottish Ministers may require the water authority to apply to them for an authorisation allowing a departure from the requirements of Part III, as regards that parameter. The circumstances in which such authorisations may be issued, and the conditions to which they are subject are contained in regulations 21 and 22, respectively. (Article 9 of the 1998 Directive permits derogations from the parametric values). Provision is made in regulation 23 for publicising authorisations. Regulation 24 provides for the modification and withdrawal of authorisations.

Part VII (regulations 25 to 29) deals with the treatment of water and regulates the substances, processes and products that may be used by water authorities in connection with the supply of water. Regulation 25 imposes requirements relating to the disinfection of water and imposes additional requirements for the treatment of surface water. It prohibits the abstraction for the supply of drinking water of waters below category A3, as required by Council Directive [75/440/EEC](#) (quality required of surface water intended for the abstraction of drinking water). Regulation 26 makes provision for securing the elimination or reduction to a minimum of the risk that water will be contaminated after supply by excessive concentrations of copper or lead. Regulation 27 specified the circumstances in which water authorities may apply or introduce substances or products into water supplied for drinking, washing or cooking. Regulation 28 enables the Scottish Ministers to require that their approval be obtained to the use of processes. Contravention of some of the requirements of regulations 27 and 28 is made a criminal offence by regulation 29, as is the making of false statements.

Part VIII deals with the provision of information by water authorities. Regulation 30 requires water authorities to prepare and maintain records containing information about the quality of water supplied in their water supply zones. Regulation 31 requires each water authority to make available for public inspection, and to supply local authorities with, information about the quality of water within its water supply zones, the extent to which Part IV of the Regulations has been complied with, details of any departures authorised under Part VI of the Regulations and of the action which has been taken to comply with default orders under section 76E of the 1980 Act. It also requires each water authority to provide local authorities, health authorities and the Water Industry Commissioner for Scotland with information relating to matters that could give rise to significant risk to public health. Regulation 32 requires water authorities to publish an annual report containing information about the quality of water in the area for which it is responsible.

Part IX (regulations 33 and 34) imposes requirements on local authorities in the performance of their duties in relation to the quality of water supplied by water authorities. Regulation 34 provides for the making of arrangements between the local authorities and the water authorities about the

provision of information. It also enables local authorities to take such samples of water as they may reasonably require.

Part X (regulation 35) provides that contraventions by water authorities of duties or requirements imposed by Parts V to VIII of the Regulations are to be enforceable under section 76E of the 1980 Act by the Scottish Ministers. This provision is additional to the criminal sanctions provided by regulation 29 in relation to contraventions of regulations 27 and 28.

Part XI (regulations 36 to 39) amends the 1990 Regulations, makes transitional provision and revokes the 1990 Regulations and other related provisions subject to savings. The amendments to the 1990 Regulations, which take effect on 26th June 2001, are set out in Schedule 5 (Regulation 36). Regulation 37 requires water authorities to submit for the Scottish Ministers' approval programmes of work designed to secure that the standards of wholesomeness prescribed in Part III of the Regulations will, so far as reasonably practicable, be achieved when that Part comes into force on 25th December 2003. Programmes of work are to be prepared in accordance with Schedule 6 and are to be submitted to the Scottish Ministers before 25th September 2001. They may be approved by the Scottish Ministers with or without modification, and may be modified where the Scottish Ministers consider it necessary to do so for the purpose of securing that wholesomeness standards will be met on and after 25th December 2003. If a water authority fails to submit a programme of works, or if the submitted programme fails to meet the requirements of Schedule 6, or is otherwise unacceptable, the Scottish Ministers may prepare one. Programmes of work will be enforceable under section 76E of the 1980 Act by the Scottish Ministers.

Regulation 38 makes further transitional provision to enable water authorities to apply in advance for the Scottish Ministers' authorisation in relation to matters which, on and after 25th December 2003, will need to be authorised under Part VI of the Regulations.

Regulation 39 revokes the 1990 Regulations, and amending regulations. Regulation 23(b) of the Private Water Supplies (Scotland) Regulations 1992 and regulation 16(1) of the Surface Waters (Abstraction for Drinking Water) (Classification) (Scotland) Regulations 1996 are also revoked to the same extent, in consequence of the revocation of the 1990 Regulations. The revocation of the 1990 Regulations does not affect the obligations of water authorities to keep records, provide information, or make reports for the year ending on 31st December 2003.

A regulatory impact assessment in respect of the Regulations may be obtained from the Scottish Executive, Rural Affairs Department, Environment Group, Water Services Unit, Victoria Quay, Edinburgh EH6 6QQ. A copy has been placed in the Scottish Parliament Information Centre.

Copies of the ISO standards referred to in Table A1 in Schedule 4 may be obtained from BSI, 389 Chiswick High Road, London W4 4AL.