

SCOTTISH STATUTORY INSTRUMENTS

2006 No. 297

WATER SUPPLY

The Private Water Supplies (Notices) (Scotland) Regulations 2006

Made - - - - 30th May 2006
Coming into force - - 3rd July 2006

The Scottish Ministers, in exercise of the powers conferred by section 2(2) of the European Communities Act 1972⁽¹⁾, and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has, in accordance with paragraph 2(2) of Schedule 2 to that Act, been laid before and approved by resolution of the Scottish Parliament:

PROSPECTIVE

Citation and commencement

1. These Regulations may be cited as the Private Water Supplies (Notices) (Scotland) Regulations 2006 and shall come into force on 3rd July 2006.

Commencement Information

II Reg. 1 in force at 3.7.2006, see [reg. 1](#)

Amendment of the Water (Scotland) Act 1980 in relation to private water supplies

2. After section 76H (Effect, confirmation and variation of notice under section 76G) of the Water (Scotland) Act 1980⁽²⁾, insert—

“Application of sections 76G and 76H to certain private supplies

76HA.—(1) In their application to a private supply which is a private water supply to which the Private Water Supplies (Scotland) Regulations 2006 ([S.S.I. 2006/209](#)) apply,

- (1) [1972 c. 68](#). Section 2(2) was amended by the Scotland Act [1998 \(c. 46\)](#), Schedule 8, paragraph 15(3). The functions conferred on the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act [1998 \(c. 46\)](#).
- (2) [1980 c. 45](#). Sections 76G and 76H were inserted by the Water Act [1989 \(c. 15\)](#), Schedule 22, paragraph 1.

Status: Point in time view as at 30/05/2006. This version of this Instrument contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Private Water Supplies (Notices) (Scotland) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

sections 76G and 76H above have effect subject to the modifications in subsections (2) and (3).

(2) In section 76G–

(a) in subsection (1)–

(i) for “domestic or food production purposes” substitute “human consumption purposes”; and

(ii) for “may” substitute “shall, in the case of a private supply which is a Type A supply or may, in the case of a private supply which is a Type B supply,”;

(b) in subsection (2)(d), for “section 76H(2) and (3)” substitute “section 76H(2), (3) and (11)”;

(c) in subsection (4)–

(i) for “The power of a local authority to” substitute “A local authority may”;

(ii) omit “shall be exerciseable”;

(iii) in paragraph (b), for “powers” substitute “functions”;

(d) in subsection (5), for “powers conferred by” substitute “functions under”; and

(e) for subsection (7), substitute–

“(7) For the purposes of this section and section 76H below the relevant person, in relation to a private supply of water to any premises in the area of a local authority, is the person determined by that authority to be the “relevant person” in accordance with regulation 4 of the Private Water Supplies (Scotland) Regulations 2006 ([S.S.I. 2006/209](#)).”; and

(f) after subsection (7) insert–

“(8) In this section–

“human consumption purposes”, “Type A supply” and “Type B supply” shall have the same meanings as in the Private Water Supplies (Scotland) Regulations 2006; and

“private supply” and “private supply of water” mean a private water supply to which those Regulations apply.”.

(3) In section 76H, after subsection (10), insert–

“(11) Any relevant person on whom a notice is served under section 76G above, who fails without reasonable excuse to take any step as specified in the notice within the period so specified shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.

Commencement Information

I2 Reg. 2 in force at 3.7.2006, see [reg. 1](#)

St Andrew’s House,
Edinburgh
30th May 2006

RHONA BRANKIN
Authorised to sign by the Scottish Ministers

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PROSPECTIVE

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under section 2(2) of the European Communities Act 1972 (c. 68), modify sections 76G and 76H of the Water (Scotland) Act 1980 (c. 45) (“the 1980 Act”) in their application to private water supplies to which the Private Water Supplies (Scotland) Regulations 2006 (“the 2006 Regulations”) apply.

The 2006 Regulations introduce a new scheme for the regulation of private water supplies in Scotland. Where supplies do not meet the requisite water quality standards set out in those Regulations, local authorities can serve a notice under sections 76G and 76H of the 1980 Act requiring those responsible for those supplies to take steps to remedy the failure.

New section 76HA(2), which is inserted by regulation 2 of these Regulations, modifies section 76G of the 1980 Act to place a duty on local authorities to serve notices in the case of Type A supplies (as defined in the 2006 Regulations). Type A supplies are those which must satisfy the water quality standards set out in Council Directive 98/83/EC on the quality of water intended for human consumption (O.J. No. L 330, 5.12.98, p.32). In the case of Type B supplies, to which the Directive does not apply, local authorities retain their powers to serve notices.

New section 76HA(3) modifies section 76H of the 1980 Act to make it an offence to fail to comply with any notice served under section 76G of that Act.

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