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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 282**

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