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WELSH STATUTORY INSTRUMENTS

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**2010 No. 994**

**The Water Supply (Water Quality) Regulations 2010**

**PART I**

General

**Title, commencement and application**

1.—(1) The title of these Regulations is the Water Supply (Water Quality) Regulations 2010 and they come into force on 20 April 2010.

(2) Parts I to IX, XI and XII of these Regulations apply in relation to the supply of water by every—

- (a) water undertaker whose area is wholly or mainly in Wales; and
- (b) licensed water supplier so far as relating to licensed activities using the supply system of any water undertaker whose area is wholly or mainly in Wales.

(3) Part X of these Regulations applies to local authorities in Wales, as regards the discharge of functions under that Part, in relation to every—

- (a) water undertaker whose area is wholly in Wales;
- (b) water undertaker whose area is partly in Wales and partly in England, but only in respect of the part in Wales; and
- (c) licensed water supplier so far as relating to licensed activities using the supply system situated in Wales of any water undertaker.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Water Industry Act 1991(1);

“access agreement” means an agreement made or determined under section 66D(2) of the Act;

“appropriate local authority”, in relation to—

- (a) a departure authorised under regulation 22;
- (b) an application for any such authorisation; or
- (c) an event specified in regulation 35(6),

means a local authority whose area contains any part of the water supply zone to which the authorisation relates or, in the case of an application, would relate if a departure were authorised in the terms sought, or whose area is affected or is likely to be affected by the event;

“blending point” means a point at which water originating from two or more sources and treated for the purposes of their supply for regulation 4(1) purposes are combined under conditions

that are designed to secure that, after such combination, the requirements of paragraph (2) of regulation 4 are met;

“Chapter III” means Chapter III (quality and sufficiency of supplies) of Part III (water supply) of the Act;

“combined licensee” means a company which is the holder of a combined licence within the meaning of Chapter 1A of Part 2 of the Act;

“consumer” means a person to whom water is supplied for regulation 4(1) purposes by a relevant supplier in the discharge of its duties under Chapter III;

“disinfection” means a process of water treatment to—

- (a) remove; or
- (b) render harmless to human health,

every pathogenic micro-organism and pathogenic parasite that would otherwise be present in the water; and “disinfected” shall be construed accordingly;

“groundwater” means all the water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil; and section 221(3) of the Water Resources Act 1991 will have effect for the purpose of this definition as it has effect for the purpose of construing references in that Act to water contained in underground strata;

“Health Protection Agency” means the body established under section 1 of the Health Protection Agency Act 2004;

“indicator parameter” means a parameter listed in Schedule 2;

“local authority” means any of the following—

- (a) in Wales, the council of a county or county borough, and
- (b) in England, a district council or the council of a county in which there are no district councils;

“parameter” means a property, element, organism or substance listed in the second column of Table A or Table B in Schedule 1 to these Regulations, or in Schedule 2, as read, where appropriate, with the notes to Schedule 2 and those Tables;

“pesticides and related products” means—

- (a) any organic insecticide;
- (b) any organic herbicide;
- (c) any organic fungicide;
- (d) any organic nematocide;
- (e) any organic acaricide;
- (f) any organic algicide;
- (g) any organic rodenticide;
- (h) any organic slimicide, and
- (i) any product related to any of (a) to (h) (including any growth regulator),

and includes their relevant metabolites, degradation and reaction products;

“prescribed concentration or value”, in relation to any parameter, means the maximum or minimum concentration or value specified in relation to that parameter in Table A or Table B in Schedule 1 as measured by reference to the unit of measurement so specified, and as read, where appropriate, with the notes to those Tables;

“Public Health Wales National Health Service Trust” means a National Health Service Trust within the meaning of the National Health Service (Wales) Act 2006 if, and in so far as, it has the function of providing services in relation to public health in Wales;

“regulation 4(1) purposes”, in relation to the supply of water, means a supply—

- (a) for such domestic purposes as consist in or include, cooking, drinking, food preparation or washing; or
- (b) for any of those domestic purposes, to premises in which food is produced;

“relevant supplier” means a water undertaker or licensed water supplier;

“retail licensee” means a company which is the holder of a retail licence within the meaning of Chapter 1A of Part 2 of the Act;

“sampling point”—

- (a) in relation to water supplied from a distribution network, means a point, being a consumer’s tap, that is selected for the purposes of Part IV of these Regulations;
- (b) in relation to water supplied from a tanker, means the point at which the water emerges from the tanker;

“specification”, in relation to an indicator parameter, means the concentration, value or state, shown as applicable to that parameter in Schedule 2 as measured by reference to the unit of measurement so shown;

“state”, in relation to an indicator parameter, means the state specified in relation to that parameter in Schedule 2 as measured by reference to the unit of measurement so specified;

“supply point” means a blending point, service reservoir, treatment works or other point, not being a sampling point, which the Welsh Ministers authorise for the purposes of regulation 6;

“supply system” is to be construed in accordance with section 17B(5) of the Act;

“water supply zone”, in relation to a water undertaker and a year, means an area designated for that year by the water undertaker in accordance with regulation 3; and

“year” means calendar year.

(2) Other expressions used both in these Regulations and in Council Directive [98/83/EC](#) (on the quality of water intended for human consumption) have the same meaning in these Regulations as they have in that Directive.

(3) Subject to paragraph (4), references in these Regulations to a service reservoir are references to any structure, other than a structure at a treatment works, in which a reserve of water that has been treated with a view to complying with the requirements of regulation 4 is contained and stored for the purpose of meeting a variable demand for the supply of water.

(4) Where references in these Regulations to a service reservoir would, but for this paragraph, include references to a structure comprising more than one compartment—

- (a) each compartment which has its own water inlet and water outlet and is not connected hydraulically to any other compartment will be treated as a single service reservoir;
- (b) the compartments that are connected hydraulically will be treated as a single service reservoir; and
- (c) unless all of the compartments are connected hydraulically, the structure as a whole will not be treated as a service reservoir.

## PART II

### Water Supply Zones

#### Water supply zones

3.—(1) Before the beginning of each year in which it intends to supply water for regulation 4(1) purposes, a water undertaker must designate the names and areas within its area of supply that are to be its water supply zones for that year.

(2) A water supply zone may not comprise an area whose population immediately before the beginning of the year in question is estimated by the water undertaker to exceed 100,000.

(3) The water quality within a water supply zone must be approximately uniform.

(4) A water undertaker may not vary a designation under paragraph (1) after the beginning of the year in relation to which the designation has effect.

## PART III

### Wholesomeness

#### Wholesomeness

4.—(1) Water supplied—

(a) for such domestic purposes as consist in or include, cooking, drinking, food preparation or washing; or

(b) to premises in which food is produced,

will, subject to paragraphs (4) and (5), be regarded as wholesome for the purposes of Chapter III, as it applies to the supply of water for those domestic purposes, if the requirements of paragraph (2) are satisfied.

(2) The requirements of this paragraph are—

(a) that the water does not contain—

(i) any micro-organism (other than a parameter listed in Schedule 1) or parasite; or

(ii) any substance (other than a parameter listed in Schedule 1),

at a concentration or value which would constitute a potential danger to human health;

(b) that the water does not contain any substance (whether or not a parameter) at a concentration or value which, in conjunction with any other substance it contains (whether or not a parameter) would constitute a potential danger to human health;

(c) that the water does not contain concentrations or values of the parameters listed in Tables A and B in Schedule 1 in excess of or, as the case may be, less than, the prescribed concentrations or values;

(d) that the water satisfies the formula  $\frac{[\text{nitrate}]}{50} + \frac{[\text{nitrite}]}{3} < 1$ , where the square brackets signify the concentrations in mg/l for nitrate (NO<sub>3</sub>) and nitrite (NO<sub>2</sub>).

(3) The point at which the requirements of paragraph (2), in so far as they relate to the parameters set out in Part I of Table A and in Table B in Schedule 1 are to be complied with is—

(a) in the case of water supplied from a tanker, the point at which the water emerges from the tanker;

- (b) in the case of water supplied in bottles or containers, the point at which the water first emerges from any bottle or container collected from a local distribution point;
  - (c) in any other case, the consumer's tap.
- (4) Water supplied for regulation 4(1) purposes will not be regarded as wholesome for the purposes of Chapter III if, on transfer from a treatment works for supply for those purposes—
- (a) it contains a concentration of the coliform bacteria or *E coli* parameter (items 1 and 2 in Part II of Table A in Schedule 1) in excess of the prescribed concentrations; or
  - (b) it contains a concentration of nitrite in excess of 0.1 mg NO<sub>2</sub>/l.
- (5) Subject to paragraph (6), water supplied for regulation 4(1) purposes will not be regarded as wholesome for the purposes of Chapter III if, on transfer from a service reservoir for supply for those purposes, it contains a concentration of the coliform bacteria or *E coli* parameter in excess of the prescribed concentrations.
- (6) Water transferred from a service reservoir for supply for regulation 4(1) purposes will not be regarded as unwholesome for the purposes of Chapter III because the maximum concentration for the coliform bacteria parameter is exceeded if, as regards the samples taken in any year in which the reservoir in question is in use, the results of analysis for that parameter establish that in at least 95 per cent of those samples coliforms were absent.

## PART IV

### Monitoring of Water Supplies

#### Interpretation and application of Part IV

- 5.—(1) In this Part “audit monitoring” means monitoring for the purpose of obtaining information from which it may be established—
- (a) as regards the parameters listed in Tables A and B in Schedule 1, whether water supplied for regulation 4(1) purposes satisfies the provisions of Part III of these Regulations or, if a departure has been authorised under Part VII in relation to that supply, those provisions as read with the terms of that departure; and
  - (b) as regards indicator parameters, whether water supplied for regulation 4(1) purposes meets the specifications for those parameters.
- (2) In this Part, “check monitoring” means monitoring for the purpose of obtaining information at regular intervals—
- (a) as to the organoleptic and microbiological quality of water; and
  - (b) where relevant, as to the effectiveness of drinking-water treatment (particularly of disinfection),
- for the purpose of determining—
- (i) as regards the parameters listed in Tables A and B in Schedule 1, whether water supplied for regulation 4(1) purposes satisfies the provisions of Part III of these Regulations or, if a departure has been authorised under Part VII in relation to that supply, those provisions as read with the terms of that departure; and
  - (ii) as regards indicator parameters, whether water supplied for regulation 4(1) purposes meets the specifications for those parameters.
- (3) This Part applies to water supplied for regulation 4(1) purposes by a relevant supplier in the performance of its duties under Chapter III.

(4) Regulations 5 to 9 apply to a combined licensee in relation to samples taken from supply points as they apply to a water undertaker, but only in so far as the combined licensee is introducing water into a water supply zone in which the water undertaker takes samples under this Part (to the extent authorised by or under regulation 8) from supply points.

### **Monitoring: general provisions**

6.—(1) For the purpose of determining whether water to which this Part applies satisfies the provisions of Part III or, if a departure has been authorised under Part VII in relation to that supply, those provisions as read with the terms of that authorisation, a water undertaker must take, or cause to be taken, and analyse, or cause to be analysed, not less than the number of samples of the water within each of the water supply zones which it supplies specified in, or in accordance with provisions of, this Part.

(2) Except in a case to which paragraph (3) applies, the parameters listed in Tables A and B in Schedule 1 and the indicator parameters will be subject—

- (a) as regards a parameter listed in column (2) of Table 1 in Schedule 3, in relation to which there is no entry in column (3) of that Table, to check monitoring;
- (b) as regards a parameter so listed in relation to which there is an entry in column (3), check monitoring in the circumstances specified in that column;
- (c) in any other case, audit monitoring.

(3) Where—

- (a) the distribution of water in any part of a water supply zone is by tanker; and
- (b) is or is likely to be an intermittent short-term supply,

samples of water from each tanker from which water is distributed must be taken 48 hours after the commencement of the distribution from that tanker and every 48 hours thereafter until the distribution is discontinued.

(4) Of the samples taken in accordance with paragraph (3) in relation to each distribution, the first must be analysed for compliance with the parameters *E coli*, hydrogen ion and conductivity (item 2 in Table A in Schedule 1, item 3 in Part II of Table B in that Schedule and item 6 in Schedule 2, respectively), and the second and any subsequent samples must be analysed for compliance with those and every other parameter.

(5) For the purposes of the application of paragraph (2)(b) to the aluminium, *Clostridium perfringens*, iron and manganese parameters (items 1, 3, 9 and 10 in Table 1 in Schedule 3), a supply which consists of both groundwater and surface water will be deemed to be a supply which consists only of surface water.

(6) The copper, lead and nickel parameters and, subject to paragraph (7), the parameters relevant to radioactivity (total indicative dose and tritium), will be monitored in such manner as the Welsh Ministers determine from time to time and will specify by notice in writing given to each water undertaker.

(7) If, in relation to any water supply zone, the Welsh Ministers are satisfied that water supplied to that zone for regulation 4(1) purposes—

- (a) gives rise to a calculated total indicative dose in respect of radioactivity that is well below the specification; or
- (b) contains levels of tritium that are well below the specification,

they must notify the water undertaker which supplies water to that zone that the total indicative dose parameter (item 8 in Schedule 2) or, as the case may be, the tritium parameter (item 10 in that Schedule) need not be monitored.

(8) The Welsh Ministers must, by notice in writing—

- (a) withdraw a notice under paragraph (7) given in relation to the total indicative dose parameter if they believe that water supplied to the zone in question for regulation 4(1) purposes gives rise to a calculated total indicative dose in respect of radioactivity that is not well below the specification;
- (b) withdraw a notice under paragraph (7) given in relation to the tritium parameter if they believe that water supplied to the zone in question for regulation 4(1) purposes contains levels of tritium that are not well below the specification.

(9) A water undertaker which receives a notice under paragraph (8) must then monitor or cause to be monitored the total indicative dose parameter or, as the case may be, the tritium parameter in accordance with the notice having effect for the time being under paragraph (6).

### **Sampling points**

7. Except in relation to water supplied from a tanker, sampling points in respect of every parameter, other than a parameter for which samples are taken from a supply point authorised by or under regulation 8, must be selected at random unless, by notice in writing to a water undertaker (whether or not on the application of the water undertaker), the Welsh Ministers otherwise determine.

### **Authorisation of supply points**

8.—(1) Subject to paragraph (2), the Welsh Ministers, being satisfied that analysis of samples taken from—

- (a) any blending point;
- (b) the water leaving any service reservoir which receives water from a treatment works before its supply to any consumer; and
- (c) the water leaving any treatment works,

will produce data in respect of the parameters specified as items 7, 8, 9 to 15 and 17 to 25 in column (1) of Table 3 in Schedule 3 which are unlikely to differ in any material respect from the data that would be produced in respect of those parameters from analysis of samples obtained from sampling points, hereby authorises the use for the purposes of regulation 6 of samples in relation to those parameters taken for a water supply zone from a blending point, a service reservoir of that description or a treatment works.

(2) In respect of any water supply zone, the taking of samples from a supply point is not authorised by paragraph (1) where a combined licensee introduces water into the water supply zone unless the water quality within the water supply zone remains approximately uniform.

(3) Subject to paragraph (4), the Welsh Ministers may, in relation to any parameter not covered by the authorisation in paragraph (1), on the written application of a water undertaker or on the joint written application of a water undertaker and combined licensee, authorise the use for the purposes of regulation 6 of samples taken for a water supply zone otherwise than from a sampling point; and any such authorisation may extend to all samples in relation to that parameter or to such number or proportion of those samples as is specified in the authorisation.

(4) The Welsh Ministers must not grant an authorisation under paragraph (3) unless they are satisfied that analysis of samples taken from a point other than a sampling point will produce data in respect of the parameter in question which are unlikely to differ in any material respect from the data that would be produced in respect of that parameter from analysis of samples obtained from sampling points.

(5) Subject to paragraph (6), the Welsh Ministers may at any time modify or revoke an authorisation under paragraph (3).

(6) Unless it appears to the Welsh Ministers that the immediate modification or revocation of an authorisation under paragraph (3) is required in the interests of public health, they must not modify or revoke such an authorisation without giving to the water undertaker to which the authorisation relates at least six weeks' notice of their intention to modify or revoke.

(7) A water undertaker must notify the Welsh Ministers as soon as it has reasonable grounds for believing that an analysis of samples taken for a water supply zone from a point other than a sampling point would produce data in respect of the parameter in question which would differ in a material respect from the data produced by an analysis of samples taken from any of the sampling points within that zone; and the Welsh Ministers must thereupon, and without the need for prior notice to the water undertaker, revoke the authorisation.

### **Numbers of samples**

- 9.—(1) Subject to paragraph (2), in each year a water undertaker must take, or cause to be taken—
- (a) from its sampling points; or
  - (b) to the extent authorised by or under regulation 8, from its supply points, the standard number of samples for analysis as regards residual disinfectant and each parameter listed in column (1) of Table 2 in Schedule 3 or, as the case may be, Table 3 in that Schedule.
- (2) Where, in respect of a parameter subject to check monitoring—
- (a) a water undertaker is of the opinion that the quality of water supplied to a water supply zone which it supplies is unlikely to deteriorate; and
  - (b) in each of two successive years the results of samples taken, subject to paragraph (3), in accordance with these Regulations show no significant variation and—
    - (i) if the parameter is colony counts, have shown no abnormal change;
    - (ii) if the parameter is hydrogen ion (item 9 in Table 1), have established a pH value that is not less than 6.5 and not more than 10.0;
    - (iii) in any other case, have established a concentration or value for that parameter that is significantly lower than the prescribed concentration or value, or specification,
 the number of samples to be taken in the following year for that parameter may be the reduced number.
- (3) Samples required to be taken by this regulation must be taken at regular intervals.
- (4) In this regulation—
- (a) in relation to sampling points, residual disinfectant or a parameter and the supply of water to an estimated population within one of the ranges shown in column (2) of Table 2 in Schedule 3, “the standard number” and “the reduced number” means the number shown in column (4) and column (3), respectively, of that Table as applicable to that substance or parameter by reference to a population within that range;
  - (b) in relation to supply points, each of the parameters specified as items 7, 8 and 9 to 25 in column (1) of Table 3 in Schedule 3, and the supply of a volume of water within one of the ranges shown in column (3) of that Table, “the standard number” and “the reduced number” means, subject to sub-paragraph (c), the number shown in column (5) and column (4), respectively, of that Table as applicable to that parameter by reference to a volume supplied within that range; and
  - (c) where a particular supply point is in use for part only of a year, “the standard number” and “the reduced number” means the number that bears to the number shown in column (5) and column (4), respectively, of Table 3, the same proportion as the number of days in that year in which the supply point has been in use bears to 365.



### **Sampling: further provisions**

10. As soon as a relevant supplier has reasonable grounds for believing that any element, organism or substance, other than residual disinfectant or a parameter, whether alone or in combination with a parameter or any other element, organism or substance, may cause the supply within any of the water supply zones which it supplies to be a supply which does not satisfy—

- (a) the provisions of Part III of these Regulations or,
- (b) if a departure has been authorised under Part VII, those provisions as read with the terms of that authorisation,

it must take, or cause to be taken, sufficient samples from water within that zone (whether from a service reservoir, a treatment works or otherwise) in respect of that element, organism or substance, in order to establish whether that water is wholesome.

## **PART V**

### **Monitoring – Additional Provisions**

#### **Interpretation of Part V**

11. In this Part, in relation to residual disinfectant or a parameter specified as item 1, 2, 3, 4 or 6 in column (1) of Table 3 in Schedule 3, and the supply of a volume of water within one of the ranges shown in column (3) of that Table, “the standard number” and “the reduced number” means the number shown in column (5) and column (4), respectively, of that Table as applicable to residual disinfectant or the parameter in question by reference to a volume of water within that range.

#### **Sampling for particular substances and parameters**

12.—(1) For the purposes of establishing the quality of water to be supplied to any of its water supply zones, a water undertaker must take, or cause to be taken, and analyse, or cause to be analysed, not less than the number of samples specified in this Part.

(2) For the purposes of establishing the quality of water to be supplied in any supply system into which a combined licensee introduces water, a combined licensee must take, or cause to be taken, and analyse, or cause to be analysed, not less than the number of samples specified in this Part.

#### **Sampling at treatment works**

13.—(1) Subject to paragraphs (2), (3) and (5), in each year every water undertaker or combined licensee must take, or cause to be taken, from the point at which water leaves each treatment works which it uses to supply water to water supply zones, the standard number of samples for analysis—

- (a) for determining the concentration of residual disinfectant;
- (b) for determining whether, in relation to the colony counts and turbidity parameters, water leaving treatment works meets the specifications for those parameters set out in Schedule 2; and
- (c) for testing for compliance with the prescribed concentrations or values in respect of the coliform bacteria, *E coli*, and nitrite parameters for water leaving treatment works.

(2) Where in each of two successive years the results of the analysis of samples taken, subject to paragraph (3), in accordance with these Regulations have established—

- (a) in respect of the coliform bacteria, *E coli* or nitrite parameter, that the maximum concentration has not been exceeded;

(b) in respect of the turbidity parameter, that the specification has been met;

(c) in respect of the colony counts parameter, that there has been no significant increase, the number of samples to be taken in respect of that parameter in the next following year from the point at which water leaves that treatment works may, subject to paragraph (5), be the reduced number.

(3) In respect of the coliform bacteria parameter and the *E coli* parameter, the reduced number of samples may be taken in accordance with paragraph (2) only if the water undertaker or combined licensee is of the opinion—

- (a) that there is no foreseeable risk that the supply will exceed the maximum concentration for that parameter; or
  - (b) that the treatment works is designed to secure that, in the event of a failure of the disinfection process, water that has not been disinfected cannot enter the supply.
- (4) Samples required to be taken by this regulation must be taken at regular intervals.

(5) Where a particular treatment works is in use for part only of a year, the minimum number of samples to be taken from that works in that year must bear to the standard number or, as the case may be, the reduced number, the same proportion as the number of days in that year in which the treatment works have been in use bears to 365.

#### **Sampling at service reservoirs**

14.—(1) Every water undertaker or combined licensee must take, or cause to be taken, from each of its service reservoirs in each week in which the reservoir is in use, one sample for analysis—

- (a) for testing for compliance with the prescribed concentrations or values in respect of the parameters *E coli* and coliform bacteria;
- (b) for determining the concentration of residual disinfectant; and
- (c) for determining whether the specification in relation to the colony counts parameter is met.

#### **Sampling: new sources**

15.—(1) This regulation applies as respects—

- (a) any source which has not been used for the supply of water by a water undertaker or combined licensee at any time since 1st January 2004; and
  - (b) any source which has been so used but not so used for a period of six months preceding the date on which the water undertaker or combined licensee proposes to supply water from it.
- (2) Every water undertaker or combined licensee must—
- (a) before it supplies water from a source mentioned in paragraph (1)(a); and
  - (b) as soon as is reasonably practicable after it has begun to supply water from a source mentioned in paragraph (1)(b),

take, or cause to be taken, in accordance with paragraph (3), such samples of that water as will enable it to establish—

- (aa) whether water can be supplied from that source without contravening section 68(1) of the Act; and
  - (bb) the treatment necessary to ensure that section 68(1) of the Act is complied with in relation to the supply of that water.
- (3) Samples must be taken—
- (a) in the case of a source mentioned in paragraph (1)(a), in respect of—

- (i) the parameters listed in Schedules 1 and 2; and
  - (ii) any other element, organism or substance which, in the opinion of the water undertaker or combined licensee proposing to use the source, may cause the supply to contravene section 68(1) of the Act;
- (b) in the case of a source mentioned in paragraph (1)(b), in respect of—
- (i) the parameters listed in Table A in Schedule 1; and
  - (ii) the conductivity, hydrogen ion and turbidity parameters; and
  - (iii) any other parameter as regards which the water undertaker or combined licensee proposing to use the source is of the opinion that its concentration or value is likely to have altered since the last occasion on which water from that source was analysed.
- (4) Unless the conditions in paragraph (5) are satisfied, a water undertaker or combined licensee must not supply water from a source mentioned in paragraph (1)(a) for regulation 4(1) purposes until three months have passed following the day on which the water undertaker or combined licensee complied with regulation 29(1) with respect to that source.
- (5) The conditions are that the water undertaker or combined licensee—
- (a) must supply water from the source as a matter of urgency in order to prevent an unexpected interruption in piped supply to consumers; and
  - (b) before the supply is made, has carried out a risk assessment under regulation 28 specifically with respect to the source.
- (6) For the purposes of paragraph (5)(b), regulation 28 will apply to supplies made as a matter of urgency as if “treatment works” includes a source from which untreated water is supplied.

### **Collection and analysis of samples**

**16.—**(1) Every water undertaker or combined licensee must secure, so far as is reasonably practicable, that in taking, handling, transporting, storing and analysing, any sample required to be taken for the purposes of Part IV or this Part of these Regulations, or causing any such sample to be taken, handled, transported, stored and analysed, the appropriate requirements are satisfied.

(2) In paragraph (1) “the appropriate requirements” means such of the following requirements as are applicable—

- (a) the sample is representative of the quality of the water at the time of sampling;
  - (b) the sample is not contaminated when being taken;
  - (c) the sample is kept at such temperature and in such conditions as will secure that there is no material alteration of the concentration or value for the measurement or observation of which the sample is intended;
  - (d) the sample is analysed as soon as may be after it has been taken—
    - (i) by or under the supervision of a person who is competent to perform that task; and
    - (ii) with the use of such equipment as is suitable for the purpose;
  - (e) any laboratory at which samples are analysed has a system of analytical quality control that is subjected from time to time to checking by a person who is—
    - (i) not under the control of the laboratory, the water undertaker or the combined licensee; and
    - (ii) approved by the Welsh Ministers for that purpose.
- (3) For the purposes of paragraph (2)(e), “laboratory” means a person who undertakes the analysis of samples for the purposes of this Part, whether at the time and place at which the samples are taken or otherwise.

(4) Every water undertaker or combined licensee must maintain such records as are sufficient to enable it to establish, in relation to each sample taken for the purposes of Part IV or this Part, that such of the appropriate requirements as are applicable to that sample have been satisfied.

(5) Subject to paragraph (7), for the purpose of establishing, within acceptable limits of deviation and detection, whether the sample contains concentrations or values which contravene the prescribed concentrations or values, or exceed the specifications for indicator parameters—

- (a) the method of analysis specified in column (2) of Table A1 in Schedule 4 will be used for the parameter specified in relation to that method in column (1);
- (b) the method of analysis used for a parameter specified in column (1) of Table A2 in that Schedule must be capable, at the time of use—
  - (i) of measuring concentrations and values equal to the parametric value with the trueness and precision specified in relation to that parameter in columns (2) and (3) of that Table; and
  - (ii) of detecting the parameter at the limit of detection specified in relation to that parameter in column (4) of that Table;
- (c) the method of analysis used for determining compliance with the hydrogen ion parameter must be capable, at the time of use, of measuring concentrations equal to the parametric value with a trueness of 0.2 pH unit and a precision of 0.2 pH unit; and
- (d) the method of analysis used for the odour and taste parameters must be capable, at the time of use, of measuring values equal to the parametric value with a precision of 1 dilution number at 25°C.

(6) For the purposes of paragraph (5)—

“limit of detection” is to be calculated as—

- (a) three times the relative within batch standard deviation of a natural sample containing a low concentration of the parameter; or
- (b) five times the relative within batch standard deviation of a blank sample;

“precision” (the random error) is to be calculated as twice the standard deviation (within a batch and between batches) of the spread of results about the mean; and

“trueness” (the systematic error) is to be calculated as the difference between the mean value of the large number of repeated measurements and the true value.

(7) Subject to paragraph (9), the Welsh Ministers may, on the application of any person, authorise a method of analysis other than that specified in paragraph (5)(a) (“the prescribed method”).

(8) An application for the purposes of paragraph (7) must be made in writing and be accompanied by—

- (a) a description of the method of analysis; and
- (b) the results of the tests carried out to demonstrate the reliability of that method and its equivalence to the prescribed method.

(9) The Welsh Ministers must not authorise the use of the method proposed in the application unless they are satisfied that the results obtained by the use of that method are at least as reliable as those produced by the use of the prescribed method.

(10) An authorisation under paragraph (7) may be subject to such conditions as the Welsh Ministers think fit.

(11) The Welsh Ministers may at any time, by notice in writing served on the water undertaker or combined licensee to which an authorisation under paragraph (7) has been given, revoke the authorisation, but no such notice will be served later than three months before the date on which the revocation is stated to take effect.

## PART VI

### Drinking Water Protected Areas

#### **Drinking water abstraction points: monitoring sites**

17.—(1) Every water undertaker or combined licensee must identify every point from which it abstracts water for supply for regulation 4(1) purposes.

(2) At every abstraction point, the relevant water undertaker or combined licensee must take, or cause to be taken, such samples, and analyse, or cause to be analysed, those samples for such properties, organisms and substances as it considers necessary in order to comply with regulations 27 to 29.

(3) In relation to any abstraction point, the Welsh Ministers may, by notice served on the relevant water undertaker or combined licensee, require the relevant water undertaker or combined licensee—

- (a) to take, or cause to be taken, such numbers of samples of water per year as may be specified; and
- (b) to analyse, or cause to be analysed, those samples for such concentrations or values of such properties, organisms and substances, and at such frequencies, as may be specified.

(4) The Welsh Ministers may, by notice served on the relevant water undertaker or combined licensee, revoke or amend a notice served under paragraph (3).

(5) Every analysis required under—

- (a) paragraph (2), in relation to every body of surface water which provides more than 100 cubic metres of water per day as an average, must be carried out at no less than the following frequencies—
  - (i) 4 per year, where the population served by the body of surface water is less than 10,000 people,
  - (ii) 8 per year, where the population so served is 10,000 to 30,000 people, and
  - (iii) 12 per year, where the population so served is greater than 30,000 people; and
- (b) paragraphs (2) and (3) must be in accordance with such relevant standards as may be specified by the Welsh Ministers by notice served on the water undertaker or combined licensee.

(6) For the purposes of—

- (a) paragraphs (2) and (3)—
  - (i) “abstraction point” means an abstraction point identified under paragraph (1), and
  - (ii) “relevant water undertaker or combined licensee” means the water undertaker or combined licensee which identified the abstraction point;
- (b) paragraph (3), “specified” means specified in the notice served under that paragraph; and
- (c) paragraph (5), “body of surface water” has the meaning given in Directive [2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy.

## PART VII

### Investigations, Authorisation of Departures and Remedial Action

#### Investigations: Schedule 1 parameters

**18.**—(1) Subject to paragraph (4), where a water undertaker or combined licensee has reason to believe that water of a relevant description—

- (a) fails, or is likely to fail, to satisfy a requirement of paragraph (2) of regulation 4; or
- (b) is to be regarded as unwholesome by virtue of paragraph (4) of that regulation; or
- (c) if paragraph (6) of that regulation were ignored, would be regarded as unwholesome by virtue of paragraph (5) of that regulation,

the water undertaker or combined licensee must immediately take such steps as are necessary to identify the matters specified in paragraph (3) below.

(2) In this regulation, “water of a relevant description” means water supplied by a relevant supplier which uses a supply system for the purposes of supplying water to consumers, being a supply system into which the water undertaker or combined licensee introduces water.

(3) The matters referred to in paragraph (1) are—

- (a) the cause and extent of the failure or, as the case may be, the apprehended failure;
- (b) the Schedule 1 parameters in respect of which the prescribed concentration or value has not been, or is unlikely to be, achieved; and
- (c) in relation to each parameter so identified, whether the failure, or apprehended failure, to achieve the prescribed concentration or value is attributable—
  - (i) to the domestic distribution system;
  - (ii) to the maintenance of that system; or
  - (iii) to neither of those matters.

(4) Where a departure has been authorised under Part VII—

- (a) paragraph (1) will apply only in respect of the Schedule 1 parameters (if any) that are not specified in the authorisation; and
- (b) every water undertaker or combined licensee which has reason to believe that water of a relevant description fails, or is likely to fail, to satisfy the concentration or value required by the authorisation in relation to any Schedule 1 parameter, must immediately take such steps as are necessary to identify the matters specified in paragraph (5).

(5) The matters referred to in paragraph (4) are—

- (a) the cause and extent of the failure or, as the case may be, the apprehended failure;
- (b) the Schedule 1 parameters in respect of which the required concentration or value has not been, or is unlikely to be, achieved; and
- (c) in relation to each parameter so identified, whether the failure, or apprehended failure, to achieve that concentration or value is attributable—
  - (i) to the domestic distribution system;
  - (ii) to the maintenance of that system; or
  - (iii) to neither of those matters.

(6) As soon as possible after the matters specified in paragraph (3) or (5), as the case may be, have been identified, the water undertaker or combined licensee must—

- (a) notify the Welsh Ministers—

- (i) of those matters;
  - (ii) whether it is its opinion that, in relation to each parameter identified in accordance with paragraph (3)(b) or (5)(b), a failure in respect of that parameter is likely to recur; and
  - (iii) of the action (if any) taken by it in relation to a failure which is attributable to the domestic distribution system or the maintenance of that system; and
- (b) send a copy of that notice to any other relevant supplier which uses the supply system for the purposes of supplying water to consumers who are likely to be affected by the failure.
- (7) Where the water undertaker or combined licensee has identified a failure attributable to the domestic distribution system or to the maintenance of such a system, it must, at the same time as notification is given under paragraph (6)—
- (a) by notice in writing—
    - (i) to those of its consumers who are likely to be affected by the failure, and
    - (ii) to any other relevant supplier which uses the supply system for the purposes of supplying water to consumers who are likely to be affected by the failure,inform them of the nature of the failure and provide details of the steps (if any) that, in its opinion, it is necessary or desirable for those consumers to take in the interests of their health; and
  - (b) send a copy of that notice to the Welsh Ministers and to each appropriate local authority.
- (8) A relevant supplier which receives a notice under paragraph (7)(a)(ii) must immediately send or cause to be sent a copy of that notice to those of its consumers who are likely to be affected by the failure.
- (9) A water undertaker or combined licensee which has complied with the requirements of paragraphs (6) and (7) need not, in respect of the same failure or apprehended failure, comply with the requirements of regulation 35(6)(a)(iv).
- (10) Where such a failure as is mentioned in paragraph (1) relates to the copper or lead parameter, the relevant supplier must, as soon as reasonably practicable after the occurrence, modify or replace such of its pipes and their associated fittings as it knows or has reason to believe have the potential for contributing to copper or lead in the water supplied to the premises, so as to eliminate that potential (whether or not the presence of copper or lead in those pipes contributed to the failure).

### **Investigations: indicator parameters**

**19.—**(1) Where a water undertaker or combined licensee has reason to believe that water of a relevant description does not meet the specifications for indicator parameters set out in Schedule 2, it must immediately take such steps as are necessary to identify—

- (a) whether water of a relevant description does or does not meet the specifications; and
- (b) if it does not; identify—
  - (i) the reason why the specifications are not met;
  - (ii) the indicator parameters in respect of which the specifications are not met; and
  - (iii) if the specification for the coliform bacteria or colony counts parameter (items 4 and 5 in Schedule 2) is not met, whether the inability to meet that specification is attributable—
    - (aa) to the domestic distribution system;
    - (bb) to the maintenance of that system; or
    - (cc) to neither of those matters.

(2) In this regulation, “water of a relevant description” means water supplied by a relevant supplier which uses a supply system for the purposes of supplying water to consumers, being a supply system into which the water undertaker or combined licensee introduces water.

(3) As soon as possible after the matters specified in paragraph (1) have been identified, the water undertaker or combined licensee must—

(a) notify the Welsh Ministers—

(i) of those matters;

(ii) whether it is its opinion that, in relation to each parameter identified in accordance with paragraph (1)(b)(ii), a recurrence of the inability to meet the specification in respect of that parameter is likely; and

(b) send a copy of that notice to any other relevant supplier which uses the supply system for the purposes of supplying water to consumers who are likely to be affected by the failure.

(4) Where, in a case to which paragraph (1)(b)(iii) applies, the inability to meet the specification has been identified as attributable to the domestic distribution system or to the maintenance of that system, the water undertaker or combined licensee must, at the same time as notification is given under paragraph (3)—

(a) by notice in writing—

(i) to those of its consumers who are likely to be affected by the failure, and

(ii) to any other relevant supplier which uses the supply system for the purposes of supplying water to consumers who are likely to be affected by the failure,

inform them of the nature of the failure and provide details of the steps (if any) that, in its opinion, it is necessary or desirable for those consumers to take in the interests of their health; and

(b) send a copy of that notice to the Welsh Ministers and to each appropriate local authority.

(5) A relevant supplier which receives a notice under paragraph (4)(a)(ii) must immediately send or cause to be sent a copy of that notice to those of its consumers who are likely to be affected by the failure.

### **Action by Welsh Ministers**

**20.**—(1) Where—

(a) a notification given in accordance with paragraph (6) of regulation 18 in the circumstances mentioned in paragraph (1) of that regulation (including that paragraph as read with paragraph (4)(a) of that regulation) discloses—

(i) a failure in respect of a parameter specified in Table B in Schedule 1; and

(ii) that the failure is not attributable to the domestic distribution system or the maintenance of that system; and

(b) it appears to the Welsh Ministers that the failure is not trivial and is likely to recur,

the Welsh Ministers may, by notice in writing to any relevant supplier which uses the supply system for the purposes of supplying water to consumers in respect of which the notification was given, require that relevant supplier to seek a departure in accordance with regulation 22.

(2) The exercise by the Welsh Ministers of the power conferred by paragraph (1) will not preclude the exercise by it, in relation to the same circumstances, of the power conferred by section 18 of the Act.

(3) Where—



- (a) a notification given in accordance with paragraph (6) of regulation 18 in the circumstances mentioned in paragraph (4)(b) of that regulation discloses—
  - (i) a failure in relation to any parameter specified in Table B in Schedule 1; and
  - (ii) that the failure is not attributable to the domestic distribution system or the maintenance of that system; and
- (b) it appears to the Welsh Ministers that the failure in respect of that parameter is not trivial and is likely to recur,

the Welsh Ministers must consider whether the terms of the authorisation under regulation 22 should be modified.

(4) Where—

- (a) a notification given in accordance with regulation 19(3) discloses an inability to meet the specification applicable to an indicator parameter; and
- (b) the Welsh Ministers consider that the inability poses a potential danger to human health;

the Welsh Ministers must, by notice in writing to any relevant supplier which uses the supply system for the purposes of supplying water to consumers in respect of which the notification was given, require that relevant supplier to take such steps as may be determined by the Welsh Ministers and specified in the notice.

(5) It will be the duty of a relevant supplier to which a notice under paragraph (4) has been given to take the steps specified in the notice.

#### **Failure attributable to domestic distribution system where water is supplied to the public**

**21.**—(1) Paragraph (3) applies where the Welsh Ministers consider that the failure (or, in the case of regulation 18, apprehended failure) disclosed by a notification under regulation 18(6) or regulation 19(3)—

- (a) is attributable to the domestic distribution system, or the maintenance of that system, in premises where water supplied for regulation 4(1) purposes is made available for use by the members of the public, including schools within the meaning of the Education Act 1996(2), hospitals and restaurants;
- (b) is not trivial and is likely to recur; and
- (c) in the case of a notification given under regulation 19(3), poses a potential danger to human health.

(2) References in this regulation to “failure” are references to a failure or apprehended failure of the type referred to in paragraph (1).

(3) Subject to paragraph (7), the Welsh Ministers must as soon as possible, serve a notice in writing on—

- (a) the water undertaker that supplies water to the premises; or
- (b) the water undertaker whose supply system is used for the purpose of a licensed water supplier making a supply of water to the premises,
- (c) requiring it to exercise the power conferred by section 75(2) of the Act in respect of the failure.

(4) The provisions of section 75(2) to (12) of the Act apply in relation to the exercise of the power in section 75(2) in pursuance of a notice served under paragraph (3), subject to the modifications in paragraph (5).

(5) Those modifications are—

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(2) 1996 c. 56.

- (a) subsections 2(b) and (4) are to be read as if any reference to “damage, contamination, waste, misuse or undue consumption” were a reference to the failure.
- (b) subsection (9) is to be read as if for the words from “the water undertaker” to the end of paragraph (b) there were substituted—

“the water undertaker—

- (a) must take those steps itself; and
- (b) subject to subsection (10) may recover any expenses reasonably incurred by the undertaker in taking those steps from the person on whom the notice was served;”.

(6) Where the water undertaker exercises the power in section 75(2) of the Act pursuant to a notice served by the Welsh Ministers under paragraph (3) it must inform by notice in writing any of its other consumers who are likely to be affected, of the steps it has taken, and that notice must include a copy of any notice that it has served.

(7) Where the Welsh Ministers consider that the failure (or any aspect of it) is attributable to factors arising from the further distribution by a person other than a water undertaker or licensed water supplier of water supplied by a water undertaker or licensed water supplier, the Welsh Ministers—

- (a) must not serve a notice under paragraph (3) in respect of that failure or aspect of it; and
- (b) if the Welsh Ministers consider that the local authority needs information or assistance from the water undertaker or licensed water supplier in order to be able to carry out its duties under regulation 15 or 16 of the Private Water Supplies (Wales) Regulations 2010(3), the Welsh Ministers must serve a notice on the water undertaker or licensed water supplier requiring it to provide such information or assistance to the local authority as is specified in the notice.

(8) It is the duty of the water undertaker or licensed water supplier on which a notice under this regulation has been served to take the steps specified in the notice as soon as possible.

(9) The duty of a water undertaker or licensed water supplier under this regulation is enforceable under section 18 of the Act.

### **Authorisation of temporary supply of water that is not wholesome**

**22.**—(1) Subject to paragraph (2), the Welsh Ministers may, upon the written application of a relevant supplier, authorise in accordance with regulation 23 a departure from the provisions of Part III of these Regulations in so far as they relate to—

- (a) a parameter specified in Table B in Schedule 1; and
- (b) the supply of water by a relevant supplier in any of the water supply zones which it uses for the purposes of supplying water to consumers.

(2) The Welsh Ministers must not authorise a departure under paragraph (1) unless they are satisfied—

- (a) that the authorisation is necessary to maintain in that zone a supply of water for regulation 4(1) purposes;
- (b) that a supply of water for those purposes cannot be maintained in that zone by any other reasonable means; and
- (c) that the supply of water in accordance with the authorisation does not constitute a potential danger to human health.

- (3) Every water undertaker or combined licensee must provide with its application—
- (a) a statement—
    - (i) of the grounds on which the authorisation is sought;
    - (ii) of the water supply zone in respect of which the authorisation is sought;
    - (iii) of the parameters in respect of which the prescribed concentration or value cannot be met;
    - (iv) in respect of each parameter to which paragraph (iii) applies, of the results of the analysis of the samples taken in the water supply zone in question during the 12 months immediately preceding the first day on which the prescribed concentration or value could not be met;
    - (v) in respect of each parameter to which paragraph (iii) applies, of the results of the analysis of the samples (if any) taken in the water supply zone in question between the first day on which the prescribed concentration or value could not be met and the date of the application;
    - (vi) of the average daily quantity of water supplied to that zone or, if that quantity cannot readily be ascertained, of the average daily quantity of water supplied from the treatment works that supplies water to that zone;
    - (vii) of the estimated population of that zone;
    - (viii) as to whether, if a departure were authorised in the terms sought, any relevant food-production undertaking would be affected;
    - (ix) of the period for which the authorisation is sought; and
    - (x) of the reasons why the supply cannot be maintained by other reasonable means;
  - (b) a scheme for monitoring the quality of water supplied in the zone during the period for which the authorisation is sought; and
  - (c) a summary of the steps that it proposes to take, either alone or together with other relevant suppliers, in order to secure that the supply fully satisfies the requirements of Part III, including—
    - (i) a timetable for the work;
    - (ii) an estimate of the cost of the work; and
    - (iii) provisions for reviewing the progress of the work and for reporting the result of the review to the Welsh Ministers.
- (4) At the same time as it makes an application for an authorisation under paragraph (1), the water undertaker or combined licensee must serve on—
- (a) every appropriate local authority;
  - (b) the Public Health Wales National Health Service Trust;
  - (c) where the water supply zone is wholly or partly in England, the Health Protection Agency; and
  - (d) the Council,
- a copy of the application and of the statement, scheme and summary referred to in paragraph (3).
- (5) A body on whom documents have been served in accordance with paragraph (4) may make representations to the Welsh Ministers in connection with the application; and any such representations must be made not later than the end of the period of 30 days beginning with the date on which the application for the authorisation is made.

**Authorisations: terms and conditions**

23.—(1) Subject to paragraph (2), a departure may be authorised under regulation 22 for such period as is in the Welsh Ministers' opinion reasonably required for securing a supply of water for regulation 4(1) purposes that fully satisfies the requirements of Part III (“the departure period”).

(2) No departure period may exceed three years.

(3) Subject to paragraph (4), an authorisation under regulation 22—

(a) must specify—

(i) the grounds on which it is granted;

(ii) every water supply zone in respect of which it is granted;

(iii) the extent to which a departure from the prescribed concentration or value of any parameter is authorised;

(iv) in respect of each parameter to which paragraph (iii) applies, the results of the analysis of the samples taken in each water supply zone in question during the 12 months immediately preceding the first day on which the prescribed concentration or value could not be met;

(v) in respect of each parameter to which paragraph (iii) applies, the results of the analysis of the samples (if any) taken in each water supply zone in question between the first day on which the prescribed concentration or value could not be met and the date of the application;

(vi) the average daily quantity of water supplied from each of those zones or, if that quantity cannot readily be ascertained, the average daily quantity of water supplied from the treatment works that supplies water to that zone;

(vii) the estimated population of each of those zones;

(viii) whether or not any relevant food-production undertaking would be affected; and

(ix) the departure period; and

(b) must require the implementation of a scheme for monitoring the quality of water supplied in each of those zones during the departure period (which may be, but need not be, the scheme submitted in accordance with regulation 22(3)(b)); and

(c) must require the carrying out of the steps which, in its opinion, are reasonably required in order to secure that the supply fully satisfies the requirements of Part III (whether or not the steps are those proposed in the summary submitted in accordance with regulation 22(3)(c)); and

(d) must specify, in relation to those steps—

(i) the timetable for the work;

(ii) an estimate of the cost of the work; and

(iii) provisions for reviewing the progress of the work and for reporting to it the result of the review; and

(e) must require the taking of such steps as may be specified to give to the population within the water supply zones to which the authorisation applies and, in particular, to those groups of that population for which the supply of water in accordance with the authorisation could present a special risk, advice as to the measures (if any) that it would be advisable in the interests of their health for persons within that population or those groups to take for the whole or any part of the departure period.

(4) Where the Welsh Ministers are of the opinion—

- (a) that the extent of the contravention of the requirements of Part III as respects any parameter is trivial; and
- (b) that the prescribed concentration or value as respects that parameter is likely to be achieved within the period of 30 days beginning with the day on which the prescribed concentration or value in respect of that parameter was contravened,

the particulars to be specified in the authorisation must be those required by paragraph (3)(a)(iii) and (ix), and sub-paragraphs (b) to (e) of that paragraph will not apply.

(5) Where it appears to the Welsh Ministers that a supply of water that fully satisfies the requirements of Part III cannot be restored by the end of the departure period, they may authorise a further departure.

(6) Paragraphs (1) to (4) will apply to a further departure as they apply to a departure authorised under regulation 22.

(7) Where it appears to the Welsh Ministers that a supply of water that fully satisfies the requirements of Part III cannot be restored by the end of the departure period relevant to an authorisation under paragraph (5), they may, in accordance with Article 9(2) of Council Directive [98/83/EEC](#), authorise a third departure.

(8) Paragraph (3) will apply to a departure authorised under paragraph (7) as it applies to a departure authorised under regulation 22, but with the substitution for the words “Subject to paragraph (4)” of the words “Subject to any direction of the Commission”.

#### **Authorisations: other limitations**

- 24.** An authorisation under regulation 22 or regulation 23 may be limited to water supplied—
- (a) from particular sources or classes of source;
  - (b) to particular water supply zones or to zones of particular descriptions.

#### **Publicity for authorisations**

**25.—**(1) As soon as reasonably practicable after a departure has been authorised, the specified relevant suppliers must—

- (a) separately publish, by making accessible, free of charge, on their websites via a hyperlink maintained on their respective homepages for at least 14 days—
    - (i) except in a case to which paragraph (4) of regulation 23 applies, a notice containing a statement of the matters specified in paragraph (3)(a)(ii), (iii), (viii) and (ix) of that regulation, and
    - (ii) in a case to which paragraph (4) of regulation 23 applies, a notice containing a statement of the matters specified in paragraph (3)(a)(ii), (iii) and (ix) of that regulation; and
  - (b) jointly give such other public notice of the authorisation and of its terms and conditions as the Welsh Ministers may, by notice served on the specified relevant suppliers, reasonably require.
- (2) In this regulation “specified relevant suppliers” means relevant suppliers—
- (a) who use the same water supply zone for the purposes of supplying water to consumers; and
  - (b) for the purposes of that supply, rely on an authorised departure relating to the same facts.

**Revocation and modification of authorisations**

**26.**—(1) Subject to paragraphs (2) and (3), the Welsh Ministers may at any time modify or revoke an authorisation under regulation 22.

(2) The Welsh Ministers must not revoke or modify an authorisation under regulation 22 without giving at least six months' notice in writing of their intention to do so—

- (a) the relevant supplier to which the authorisation relates;
- (b) any other relevant supplier which, for the purposes of supplying water to consumers, uses the water supply zone in respect of which the authorised departure has been given;
- (c) every appropriate local authority;
- (d) the Public Health Wales National Health Service Trust;
- (e) where the authorisation relates to a water supply zone which is wholly or partly in England, the Health Protection Agency; and
- (f) the Council,

but they may revoke or modify an authorisation without notice if it appears to them that immediate revocation or modification is required in the interests of public health.

(3) A relevant supplier on whose application a departure has been authorised under this Part must notify the Welsh Ministers as soon as the circumstances which gave rise to the application cease to exist; and the Welsh Ministers will thereupon revoke the authorisation without the need for prior notice.

**PART VIII****Water Treatment****Disinfection and other treatment arrangements**

**27.**—(1) Unless the conditions in paragraph (5) are satisfied, before supplying water for regulation 4(1) purposes, a water undertaker or combined licensee must—

- (a) disinfect the water; and
- (b) where necessary, subject the water to sufficient preliminary treatment to prepare it for disinfection.

(2) A water undertaker or combined licensee must—

- (a) design, operate and maintain the disinfection process so as to keep the presence of disinfection by-products as low as possible without compromising the effectiveness of the disinfection; and
- (b) verify the effectiveness of the disinfection process.

(3) Paragraph (4) applies when any property, organism or substance is present in a water source at a level that may constitute a potential danger to human health.

(4) Unless the conditions in paragraph (5) are satisfied, before supplying water for regulation 4(1) purposes using water from any source, a water undertaker or combined licensee must design and continuously operate an adequate treatment process for water from the source.

(5) The conditions are that the water undertaker or combined licensee—

- (a) Must supply water from the treatment works as a matter of urgency in order to prevent an unexpected interruption in piped supply to customers; and

- (b) before the supply is made, has taken all necessary steps to inform consumers that the water is not disinfected or adequately treated.
- (6) For the purposes of this regulation—
  - (a) “adequate treatment process” means a process of blending or purification treatment which—
    - (i) removes, or
    - (ii) renders harmless the value or concentration of,any property of, organism or substance in, water, so that supplies do not constitute a potential danger to human health;
  - (b) “sufficient preliminary treatment” means the treatment necessary—
    - (i) to remove, or to reduce the value or concentration of, any property or substance which would interfere with disinfection, and
    - (ii) to reduce turbidity to less than one Nephelometric Turbidity Unit;
  - (c) water is supplied for regulation 4(1) purposes when it leaves a treatment works.

### **Risk assessment**

**28.**—(1) This regulation applies to every treatment works and supply system from which water is supplied for regulation 4(1) purposes.

(2) Every water undertaker or combined licensee must carry out a risk assessment of each of its treatment works and connected supply system in order to establish whether there is a significant risk of supplying water from those works or supply system that would constitute a potential danger to human health.

(3) Pursuant to paragraph (2), every water undertaker or combined licensee must carry out a risk assessment in respect of—

- (a) each of its treatment works and connected supply systems which—
  - (i) is in use on 22 December 2007, and
  - (ii) it expects to use after 1 October 2008; and
- (b) any other treatment works and connected supply system, before supplying water from them.

(4) Every water undertaker or combined licensee must keep its risk assessments under review.

(5) The Welsh Ministers may by notice served on a water undertaker or combined licensee, require a risk assessment or review to be carried out by a date specified in the notice.

(6) Where a water undertaker or combined licensee becomes aware of any factors which make it likely that a risk assessment under this regulation would establish that there is a significant risk of supplying water that would constitute a potential danger to human health, it must serve a notice on the Welsh Ministers specifying the relevant factors.

### **Procedure following risk assessment and prohibition of supply**

**29.**—(1) As soon as reasonably practicable after a water undertaker or combined licensee has carried out a risk assessment or review of such assessment under regulation 28, it must submit to the Welsh Ministers a report of the assessment or review.

(2) The report must contain—

- (a) a description of the methods used to carry out the assessment or review;

- (b) where the assessment or review establishes that there is no significant risk of supplying water that would constitute a potential danger to human health, a statement confirming this; and
- (c) where the assessment or review establishes that measures have been taken to remove a significant risk of supplying water that would constitute a potential danger to human health—
  - (i) monitoring data which verifies this, and
  - (ii) details of those measures.
- (3) Where the assessment or review establishes that there is a significant risk of supplying water that would constitute a potential danger to human health, the report must—
  - (a) contain a full explanation including details of every property, organism or substance that has been identified as contributing to the risk; and
  - (b) specify the measures that the water undertaker or combined licensee—
    - (i) has made operational as at the date of the report, and
    - (ii) intends to make operational,
 to mitigate the risk.
- (4) Where the Welsh Ministers have received a report which states that there is or has been a significant risk of supplying water that would constitute a potential danger to human health, they may, by notice served on the water undertaker or combined licensee, require the water undertaker or combined licensee—
  - (a) to maintain such specified measures for such period of time as the Welsh Ministers consider appropriate to mitigate the risk;
  - (b) to review, revise or make operational such specified measures by such date as the Welsh Ministers consider appropriate to mitigate the risk;
  - (c) to audit whether the measures have been effective by such means as may be specified;
  - (d) not to supply water for regulation 4(1) purposes from specified treatment works or supply systems, or not to so supply unless specified conditions are satisfied; and
  - (e) to give the Welsh Ministers such information as they may require to monitor progress towards mitigation of that risk.
- (5) In paragraph (4), “specified” means specified in the notice served under that paragraph.
- (6) The Welsh Ministers may, by notice served on the relevant water undertaker or combined licensee, revoke or amend a notice served under paragraph (4).

### **Contamination from pipes**

**30.**—(1) Where there is a risk (“the prescribed risk”) that water supplied by a relevant supplier would, for the reason mentioned in paragraph (2), after leaving the relevant supplier’s pipes—

- (a) contain a concentration of copper in excess of 2 mg/litre; or
- (b) contain a concentration of lead in excess of 10 µg/litre,

every water undertaker or combined licensee which introduces water into the supply system used by the relevant supplier must, subject to paragraph (3), treat the water in such a way as will, in its opinion, eliminate the prescribed risk or reduce it to a minimum.

(2) The reason referred to in paragraph (1) is the presence in the water of a concentration of copper or lead which is attributable to the fact that copper or lead is the major component of such a pipe as is mentioned in section 68(3)(a) of the Act, or its associated fittings.

(3) Paragraph (1) will not require a water undertaker or combined licensee to treat water—



- (a) if the treatment is unlikely to achieve a significant reduction in the concentration of copper or lead; or
  - (b) if treatment is not reasonably practicable.
- (4) Where at any time in the period beginning with 25th December 2003 and ending immediately before 25th December 2013, a relevant supplier—
- (a) has reason to believe that water supplied by it for regulation 4(1) purposes from a pipe to which paragraph (5) applies contains, at the consumer’s tap, a concentration of lead which exceeds 10 µg/l but does not exceed 25 µg/l; and
  - (b) has received from the owner of premises to which water is so supplied notice in writing—
    - (i) of the owner’s intention to replace so much of the pipe as belongs to him; and
    - (ii) of his desire that the relevant supplier replaces the remainder of the pipe,the relevant supplier must modify or replace its part of the pipe.
- (5) This paragraph applies to a pipe—
- (a) of which the major component is lead;
  - (b) which is subject to water pressure from a water main or would be so subject but for the closing of some valve; and
  - (c) which belongs, as to part, to a relevant supplier and, as to the remainder, to the owner of any premises to which the relevant supplier supplies water for regulation 4(1) purposes.

### **Application and introduction of substances and products**

**31.—(1)** In this regulation—

“the Directive” means Council Directive [89/106/EEC](#) on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products, as amended from time to time;

“EEA State” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“European technical approval” means a favourable technical assessment of the fitness for use of a construction product for an intended use, issued for the purposes of the Directive by a body authorised by an relevant State to issue European technical approvals for those purposes and notified by that body to the European Commission;

“harmonized standard” means a standard established as mentioned in the Directive by the European standards organisation on the basis of a mandate given by the European Commission and published by the Commission in the Official Journal of the European Communities; and

“relevant State” means a state which is a Member State or any other state which is an EEA State.

(2) Subject to paragraph (3), a water undertaker or combined licensee must not apply any substance or product to, or introduce any substance or product into, water which is to be supplied for regulation 4(1) purposes unless one of the requirements of paragraph (4) is satisfied.

(3) A substance or product which, at the time of its application or introduction, bears an appropriate CE marking in accordance with the Directive, or conforms to—

- (a) an appropriate harmonised standard or European technical approval; or
- (b) an appropriate British Standard or some other national standard of a relevant State which provides an equivalent level of protection and performance,

may be applied or introduced, notwithstanding that none of the requirements of paragraph (4) is satisfied; but any such application or introduction will be subject to—

- (i) such national conditions of use restricting the dosing concentration as are for the time being in force in relation to such substances and products pursuant to a determination of the Welsh Ministers by an instrument in writing; and
- (ii) such other requirements, within the meaning of Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society Services, as amended from time to time, in relation to such substances and products, as have been communicated to the Commission in the form of a draft technical regulation in accordance with Article 8 of that Directive, and whose adoption by a Member State has also been communicated to the Commission.

(4) The requirements of this paragraph are—

- (a) that the Welsh Ministers have for the time being approved the application or introduction of that substance or product and it is applied or introduced in accordance with any conditions attaching to that approval;
- (b) that the Welsh Ministers are satisfied that the substance or product either alone or in combination with any other substance or product in the water is unlikely to affect adversely the quality of the water supplied;
- (c) that the substance or product is to be applied or introduced solely for the purposes of testing or research, and the water undertaker or combined licensee has given to the Welsh Ministers not less than 3 months' notice in writing of its intention so to apply or introduce the substance or product.

(5) An application for such an approval as is mentioned in paragraph (4)(a) may be made by any person.

(6) If the Welsh Ministers decide to issue an approval under paragraph (4)(a), they may include in the approval such conditions as it considers appropriate and, subject to paragraph (10), may at any time revoke or vary any approval it has previously given.

(7) Where substances or products are applied or introduced in any case in which the requirement mentioned in paragraph (4)(c) is satisfied, their application or introduction will be discontinued within 12 months of the date on which they were first applied or introduced or, if the Welsh Ministers by notice given in writing to the water undertaker or combined licensee so directs, within such other period (whether longer or shorter) as may be specified in the notice.

(8) The Welsh Ministers may, by notice given in writing to any water undertaker or combined licensee, prohibit the water undertaker or combined licensee from applying to, or introducing into, water intended to be supplied for regulation 4(1) purposes any substance or product which the water undertaker or combined licensee would otherwise be authorised to apply or introduce by virtue of—

- (a) paragraph (2) and sub-paragraph (b) or (c) of paragraph (4); or
- (b) paragraph (3).

(9) A prohibition under paragraph (8) may be without limitation as to time or for such period as is specified in the notice.

(10) The Welsh Ministers may—

- (a) revoke by an instrument in writing any approval given by it under paragraph (4)(a);
- (b) modify any such approval by an instrument in writing by including conditions or varying existing conditions;
- (c) give any such notice as is mentioned in paragraph (8);

but, unless the Welsh Ministers are satisfied that it is necessary to do so in the interests of public health without notice, must not do any of those things without giving all such persons as are, in the opinion of the Welsh Ministers, likely to be affected by the revocation or modification of the approval or by the giving of the notice at least 6 months' notice in writing of its intention.

(11) Notice must be given forthwith by the Welsh Ministers to all persons likely to be affected by the making of such an instrument as is mentioned in paragraph (10)(a) or (b).

(12) At least once in each year beginning with the year 2010, the Welsh Ministers must issue a list of all the substances and products in relation to which—

- (a) an approval under paragraph (4)(a) has been granted or refused;
- (b) such an approval has been revoked or modified;
- (c) a notice has been given under paragraph (8),

with particulars of the action taken.

(13) The Welsh Ministers may—

- (a) by notice served on the person who makes an application for approval under paragraph (4) (a), require the person to pay the Welsh Ministers a charge which reflects the administrative expenses incurred or likely to be incurred by the Welsh Ministers in connection with the application; and
- (b) in determining the amount of any such charge, adopt such methods and principles for its calculation as appear to the Welsh Ministers to be appropriate.

### **Use of processes**

**32.**—(1) The Welsh Ministers may at any time by notice in writing given to a water undertaker or combined licensee require the water undertaker or combined licensee to make an application to it for approval of the use of any process; and may prohibit the water undertaker or combined licensee for such period as may be specified in the notice from using any such process in connection with the supply by the water undertaker or combined licensee of water for regulation 4(1) purposes.

(2) The Welsh Ministers may refuse the application or impose on any approval given for the purposes of this regulation such conditions as they think fit and, subject to paragraph (3), may at any time by notice in writing to the water undertaker or combined licensee revoke an approval so given or modify or revoke any condition imposed by virtue of this paragraph.

(3) Subject to paragraph (4), the Welsh Ministers must not—

- (a) revoke any approval given for the purposes of this regulation;
- (b) modify any condition imposed by virtue of paragraph (2); or
- (c) prohibit a water undertaker or combined licensee from using any process,

unless the Welsh Ministers have given to the water undertaker or combined licensee at least 6 months' notice in writing of the Welsh Ministers' intention to revoke, modify or prohibit, as the case may be.

(4) Paragraph (3) will not apply in any case in which the Welsh Ministers are of the opinion that the immediate revocation, modification or prohibition is necessary in the interests of public health.

(5) Paragraph (12) of regulation 31 will apply for the purposes of this regulation as if—

- (a) for the reference to a substance or product there were substituted a reference to a process; and
- (b) for the reference to paragraph (4)(a) and paragraph (8) there were substituted a reference to this regulation and paragraph (1) of this regulation respectively.

**Offences**

**33.**—(1) A water undertaker or combined licensee which contravenes regulation 27(1) or (3) or the terms of a notice served under regulation 29(4)(d) will be guilty of an offence and liable—

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

(2) In any proceedings against a water undertaker or combined licensee for an offence under paragraph (1), it will be a defence for that water undertaker or combined licensee to show that it took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

(3) A water undertaker or combined licensee which applies or introduces any substance or product in contravention of regulation 31(2) or a notice given under regulation 31(8), or uses any process in contravention of a prohibition imposed under regulation 32(1) or without complying with a condition imposed by virtue of regulation 32(2) will be guilty of an offence and liable—

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

(4) If any person, in furnishing any information or making any application under regulation 31 or 32, makes any statement which he or she knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he or she will be guilty of an offence and liable—

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

(5) Proceedings for an offence under paragraph (4) will not be instituted except by or with the consent of the Welsh Ministers or the Director of Public Prosecutions.

**PART IX****Records and Information****Maintenance of records**

**34.**—(1) Every water undertaker or combined licensee must, in respect of each of the water supply zones which it uses for the purposes of supplying water to consumers, prepare and maintain a record containing—

- (a) the name of the zone;
- (b) the name of every water treatment works, service reservoir and other supply point from which water is supplied to premises within the zone;
- (c) an estimate of the population of the zone;
- (d) particulars of any departure authorised under Part VII of these Regulations which applies to water supplied in the zone;
- (e) particulars of the action taken or required to be taken by the water undertaker or combined licensee to comply with—
  - (i) any enforcement order made under section 18 of the Act;
  - (ii) any departure authorised under Part VII; and
  - (iii) any notice under regulation 20(4);
- (f) particulars of the result of any analysis of samples taken in accordance with Part IV of these Regulations or any of regulations 12 to 14, 17 and 29; and

- (g) such other particulars as the water undertaker or combined licensee may determine.
- (2) A retail licensee must, in respect of each of the water supply zones which it uses for the purposes of supplying water to consumers, prepare and maintain a record containing—
  - (a) the name of the zone;
  - (b) particulars of any departure authorised under Part VII of these Regulations which applies to water supplied in the zone;
  - (c) particulars of the action taken or required to be taken by the retail licensee to comply with—
    - (i) any enforcement order made under section 18 of the Act;
    - (ii) any departure authorised under Part VII; and
    - (iii) any notice under regulation 20(4); and
  - (d) such other particulars as the retail licensee may determine.
- (3) A water undertaker or combined licensee must make—
  - (a) initial entries in the record in respect of the matters mentioned in paragraph (1) (a) to (d) and (e)(ii) before 1st March 2004 or, in the case of a combined licensee, no later than 3 months after the day on which it first introduces water into a supply system for the purposes of supplying water to consumers;
  - (b) entries in respect of the matters mentioned in paragraph (1)(e)(i) and (iii) within 28 days of the date of the order and notice respectively; and
  - (c) entries relating to the results of the analysis of samples within 28 days of the day on which the result is first known to the water undertaker or combined licensee.
- (4) A retail licensee must make—
  - (a) initial entries in the record in respect of the matters mentioned in paragraph (2)(a), (b) and (c)(ii) no later than 3 months after the day on which it first uses a supply system for the purposes of supplying water to consumers; and
  - (b) entries in respect of the matters mentioned in paragraph (2)(c)(i) and (iii) within 28 days of the date of the order and notice respectively.
- (5) Without prejudice to paragraph (3), the relevant supplier must at least once in each year review and bring up to date the record required to be kept by paragraph (1) or paragraph (2) (as the case may be).
- (6) Nothing in this regulation will require a relevant supplier to retain a record—
  - (a) of information mentioned in any of sub-paragraphs (a), (b) and (f) of paragraph (1) or in sub-paragraph (a) of paragraph (2) at any time more than 30 years after the date on which the information was first entered in the record;
  - (b) of information mentioned in any other sub-paragraph of paragraph (1) or paragraph (2) at any time more than five years after the date on which the information was first entered in the record.

### **Provision of information**

**35.**—(1) Subject to paragraphs (2), (3) and (4), any person may request a relevant supplier to send to the person making the request a copy of any record maintained by the relevant supplier under regulation 34 and the relevant supplier must, within seven days of the receipt of the request, send a copy of the record requested to the person who requested it.

- (2) A relevant supplier must comply with a request under paragraph (1)—

- (a) in the case of a request relating to a water supply zone, free of charge if the person receives a supply of water in the zone; or
  - (b) in any other case, on payment of such reasonable charge as the relevant supplier may determine.
- (3) Paragraph (1) does not oblige a relevant supplier to comply with a request which is vexatious.
- (4) Where a relevant supplier has previously complied with a request which was made by any person, paragraph (1) does not oblige it to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the subsequent request.
- (5) A water undertaker must include in, or append to, at least one of the accounts sent to each customer in any year a statement informing customers of their rights under paragraph (1).
- (6) As soon as possible after an event which, by reason of its effect or likely effect on the water supplied by a relevant supplier, gives rise or is likely to give rise to a significant risk to human health the relevant supplier must notify—
- (a) in every case—
    - (i) every appropriate local authority,
    - (ii) the Public Health Wales National Health Service Trust,
    - (iii) the Council, and
    - (iv) the Welsh Ministers, and
  - (b) in any case where the event gives rise or is likely to give rise to a significant risk to human health in England—
    - (i) the Health Protection Agency, and
    - (ii) the Secretary of State.
- (7) Where a person has received a notification under paragraph (6), that person may require the relevant supplier to provide such further information relating to the event and its consequences as that person may reasonably require.

## **PART X**

### Functions of Local Authorities in Relation to Water Quality

#### **Application and interpretation**

- 36.—**(1) This Part applies to the performance by a local authority of their duty under section 77(1) of the Act insofar as that duty relates to water supplies which are not private supplies.
- (2) In this Part “specified relevant supplier”, in relation to a local authority, means—
- (a) a water undertaker any of whose water supply zones include an area which is situated within the area of that authority; or
  - (b) a licensed water supplier which uses any such water supply zones for the purposes of supplying water to consumers.

#### **Duties of local authorities: supplementary provision**

- 37.—**(1) In performing their duty under section 77(1) of the Act (general functions of local authorities in relation to water quality), a local authority—

- (a) must make such arrangements with the specified relevant supplier as will secure that the authority is notified as mentioned in regulation 35(6)(a)(i); and
  - (b) may take, or cause to be taken, and analyse, or cause to be analysed, by a person designated by them in writing, such samples of the water supplied to premises in their area as they may reasonably require.
- (2) Regulation 16 will apply to samples taken by virtue of paragraph (1) as it applies to samples taken for the purposes of Parts IV and V of these Regulations; but with the following modifications—
- (a) in paragraph (1), for the words “A water undertaker or combined licensee” there will be substituted the words “A local authority”; and
  - (b) in paragraph (2)(e), for the words “the laboratory, the water undertaker or the combined licensee” there is substituted “the laboratory, the water undertaker, the combined licensee or the authority”.

## **PART XI**

### **Enforcement**

#### **Contraventions by relevant suppliers**

**38.** Any duty or requirement imposed by Parts IV to IX of these Regulations on a relevant supplier will be enforceable under section 18 of the Act by the Welsh Ministers or the Authority, whether or not the duty or requirement constitutes an offence.

## **PART XII**

### **Revocation of Regulations**

#### **Revocation of Regulations**

**39.**—(1) The Water Supply (Water Quality) Regulations 2001<sup>(4)</sup> and The Water Supply (Water Quality) Regulations 2001 (Amendment) Regulations 2007<sup>(5)</sup> are revoked.

25 March 2010

*Jane Davidson*  
Minister for Environment, Sustainability and  
Housing, one of the Welsh Ministers

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<sup>(4)</sup> S.I. 2001/3911 (W.323), as amended by S.I. 2005/2035.

<sup>(5)</sup> S.I. 2007/3374 (W.299).