
WELSH STATUTORY INSTRUMENTS

2017 No. 1041

The Private Water Supplies (Wales) Regulations 2017

PART 1

Water standards

Title, application and commencement

1. The title of these Regulations is the Private Water Supplies (Wales) Regulations 2017; they apply in relation to Wales and come into force on 20 November 2017.

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Water Industry Act 1991;

“the 2010 Regulations” (“*Rheoliadau 2010*”) means the Private Water Supplies (Wales) Regulations 2010(1);

“the Chief Inspector of Drinking Water” (“*y Prif Arolygydd Dŵr Yfed*”) means the person designated by the Welsh Ministers under section 86(1B) of the Act (assessors for the enforcement of water quality)(2);

“consumer” (“*defnyddiwr*”) mean a person to whom a private water supply is provided for human consumption purposes;

“disinfection” (“*diheintio*”) means a process of water treatment to remove, or render harmless to human health, every pathogenic micro-organism and pathogenic parasite that would otherwise be present in the water;

“domestic tenancy” (“*tenantiaeth ddomestig*”) has the same meaning as in section 2 of the Housing (Wales) Act 2014 (meaning of key terms)(3);

“indicative dose” (“*dos dangosol*”) means the committed effective dose for 1 year of ingestion resulting from all the radionuclides whose presence has been detected in a supply of water intended for human consumption, of natural and artificial origin, excluding tritium, potassium-40, radon and short-lived radon decay products;

“monitoring for Group A parameters” (“*monitro ar gyfer paramedrau Grŵp A*”) has the meaning given in paragraph 1 of Schedule 2;

“monitoring for Group B parameters” (“*monitro ar gyfer paramedrau Grŵp B*”) has the meaning given in paragraph 3 of Schedule 2;

“NTU” (“*NTU*”) means Nephelometric Turbidity Unit;

(1) S.I. 2010/66 (W. 16), as amended by S.I. 2010/147 (W. 22), S.I. 2010/1384 (W. 123), S.I. 2013/235, S.I. 2015/1867 (W. 274), S.I. 2016/411 (W. 129), and S.I. 2017/506.

(2) Section 86(1B) was inserted by section 57(3) of the Water Act 2003 (c. 37).

(3) 2014 anaw 7.

“parameter” (“*paramedr*”) means a property, element, organism or substance listed in the first column of the Tables in the Schedule 1 as read, where appropriate, with the notes to that Schedule and those Tables;

“prescribed concentration or value” (“*crynodiad neu werth rhagnodedig*”) in relation to any parameter, means the maximum or minimum concentration or value specified in relation to that parameter in the Tables in Schedule 1 as measured by reference to the unit of measurement so specified, and as read, where appropriate, with the notes to that Schedule and those Tables;

“private water supply” (“*cyflenwad dŵr preifat*”) means a supply of water other than a supply provided directly by a water undertaker(4) or water supply licensee(5), and which is comprised of all physical assets from the point of abstraction to the point of use, including associated pipes, fittings and tanks;

“relevant person” (“*person perthnasol*”) means—

- (a) the owner and occupier (who may be the same or different persons) of premises which are supplied with water for domestic or food production purposes by means of a private water supply;
- (b) the owner and occupier (who may be the same or different persons) of land on which any part of the supply is situated;
- (c) any other person who exercises powers of management or control in relation to that supply;

“risk assessment” (“*asesiad risg*”) means a risk assessment carried out under regulation 6.

Scope

3.—(1) These Regulations apply in relation to private water supplies intended for human consumption; and for these purposes “water intended for human consumption” means—

- (a) all water either in its original state or after treatment, intended for drinking, cooking, food preparation or other domestic purposes, regardless of its origin and whether it is supplied from a distribution network, from a tanker, or in bottles or containers;
- (b) all water used in any food production undertaking for the manufacture, processing, preservation or marketing of products or substances intended for human consumption unless, in accordance with Regulation (EC) No. 852/2004 of the European Parliament and of the Council on the hygiene of foodstuffs(6), the competent authority(7) is satisfied that the quality of the water cannot affect the wholesomeness of the foodstuff in its finished form.

(2) These Regulations do not apply in relation to—

- (a) water to which the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015(8) apply;
- (b) water that is a medicinal product within the meaning of the Medicines Act 1968(9);
- (c) water used solely for washing a crop after it has been harvested and that does not affect the fitness for human consumption of the crop or of any food or drink derived from the crop.

(4) See section 6 of the Act for the meaning of “water undertaker”.

(5) See section 17A of the Act for the meaning of “water supply licensee”. Section 17A was substituted by section 1(1) of the Water Act 2014 (c. 21).

(6) OJ No. L 139, 30.4.2004, p. 1 as last amended by Regulation (EC) No. 219/2009 (OJ No. L 87, 31.3.2009, p. 109).

(7) The competent authority for the purpose of this Regulation is the Food Standards Agency; see S.I. 2006/31 (W. 5).

(8) S.I. 2015/1867 (W. 274).

(9) 1968 c. 67.

Wholesomeness

4.—(1) A private water supply is to be regarded as wholesome if all the following conditions are met—

- (a) it does not contain any micro-organism, parasite or substance, alone or in conjunction with any other substance, at a concentration or value that would constitute a potential danger to human health;
- (b) it complies with the prescribed concentration or value for each parameter; and
- (c) the water satisfies the formula “[nitrate]/50 + [nitrite]/3 ≤ 1”, where the square brackets signify the concentrations in mg/l for nitrate (NO₃) and nitrite (NO₂).

(2) A reference in these Regulations to water being unwholesome means the requirements in paragraph (1) not being met.

Use of products or substances in private water supplies and disinfection arrangements

5.—(1) Any product or substance used in the preparation or distribution of a private water supply, or impurities associated with such products or substances, must not be present in water at the point of use at levels that would make it unwholesome or constitute a potential danger to human health.

(2) Where disinfection forms part of the preparation or distribution of water, the relevant person 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 process;
- (b) ensure that the effectiveness of the disinfection process is maintained;
- (c) keep records of the maintenance and monitoring which have been undertaken in order to verify the effectiveness of the disinfection process; and
- (d) keep copies of those records available for inspection by the local authority, for a period of 5 years.

Requirement to carry out a risk assessment

6.—(1) A local authority⁽¹⁰⁾ must carry out a risk assessment for every private water supply in its area and review and update that risk assessment every 5 years (or earlier if it considers that the existing risk assessment is inadequate).

(2) In the case of a supply provided to a single dwelling, the duty in paragraph (1) applies only where that supply is provided as part of a commercial or public activity or as part of a domestic tenancy.

(3) In the case of a supply provided to a single dwelling not falling within paragraph (2), a local authority must carry out a risk assessment if requested to do so by the owner or occupier of that dwelling.

(4) A risk assessment must—

- (a) establish whether there is a significant risk of supplying water that would constitute a potential danger to human health;
- (b) satisfy the requirements of the Security of Drinking Water Supply Guidelines for Risk and Crisis Management⁽¹¹⁾; and

⁽¹⁰⁾ See section 219 of the Act (as amended by paragraph 2(2) of Schedule 11 to the Local Government (Wales) Act 1994 (c. 19)) for the meaning of “local authority”.

⁽¹¹⁾ EN 15975-2.

(c) take into account the results from the monitoring programmes established by the second paragraph of Article 7(1) of [Directive 2000/60/EC](#) of the European Parliament and of the Council⁽¹²⁾.

(5) A local authority must within 12 months of having carried out a risk assessment provide the Welsh Ministers with a summary of the results of that assessment.

PART 2

Monitoring

Monitoring

7.—(1) A local authority must monitor all private water supplies in its area in accordance with this Part when carrying out its duties under section 77(1) of the Act (general functions of local authorities in relation to water quality).

(2) The local authority must discharge the obligation in paragraph (1) by establishing a monitoring programme which consists of either—

- (a) the collection and analysis of discrete water samples;
- (b) measurement recorded by a continuous monitoring process; or
- (c) a combination of the methods in sub-paragraphs (a) and (b).

(3) Monitoring programmes may include either or both of—

- (a) inspections of records of the functionality and maintenance status of equipment;
- (b) inspections of the catchment area, water abstraction, treatment, storage and distribution infrastructure.

Further distribution of supplies from water undertakers or water supply licensees

8. Where water is supplied by a water undertaker or a water supply licensee and is then further distributed by a person other than a water undertaker or a water supply licensee, the local authority must carry out any monitoring which the risk assessment shows to be necessary.

Large supplies and supplies as part of a commercial or public activity

9.—(1) This regulation applies to a private water supply, other than that specified in regulation 8, that—

- (a) supplies an average daily volume of water of 10m³ or more; or
- (b) supplies water as part of a commercial or public activity.

(2) The local authority must monitor a private water supply falling within this regulation in accordance with Schedule 2 and carry out any additional monitoring that the risk assessment shows to be necessary.

Supplies to a single dwelling

10.—(1) This regulation applies to a private water supply to a single dwelling not used as part of a commercial or public activity (in which case regulation 9 applies) or as part of a domestic tenancy (in which case regulation 11 applies).

(12) OJ No. L 327, 22.12.2000, p. 1, as last amended by Commission [Directive 2014/101/EU](#) (OJ No. L 311, 31.10.2014, p. 32).

- (2) Where this regulation applies, the local authority—
 - (a) may monitor the supply in accordance with the requirements in regulation 11(1); and
 - (b) must do so if requested to do so by the owner or occupier of that dwelling.

Other private supplies including supplies as part of a domestic tenancy

11.—(1) In the case of a private water supply not covered by regulation 8, 9 or 10, the local authority must monitor for—

- (a) conductivity;
- (b) enterococci;
- (c) *Escherichia coli* (*E. coli*);
- (d) hydrogen ion concentration;
- (e) turbidity;
- (f) any parameter in Part 1 or 2 of Schedule 1 identified in the risk assessment as being at risk of not complying with the concentrations or values in those Parts of that Schedule; and
- (g) anything else identified in the risk assessment as a potential danger to human health.

(2) The local authority must carry out the monitoring required by this regulation at least every 5 years and more frequently if the risk assessment shows this to be necessary.

Monitoring of radioactive substances: general

12.—(1) A local authority must monitor each private water supply in its area (other than a supply to which regulation 13 applies) for the parameters contained in the radioactive substances parameters table in accordance with this regulation and Schedule 3.

(2) In this regulation and Schedule 3, “the radioactive substances parameters table” means Table D in Part 3 of Schedule 1.

(3) Where a local authority is satisfied that a parameter in the radioactive substances parameters table is not likely to be present in a private water supply in its area in concentrations which could exceed the prescribed concentration or value for the relevant parameter in that table, the local authority may, for such a time as it sees appropriate, decide to exclude the parameter in question from the monitoring duty in paragraph (1).

- (4) A decision under paragraph (3) must be made—
 - (a) on the basis of representative surveys, monitoring data or other reliable information (including any risk assessment carried out in accordance with regulation 6); and
 - (b) taking into account any guidance issued by the Welsh Ministers.

(5) The local authority must provide the Welsh Ministers with the grounds for its decision under paragraph (3) and the necessary documentation supporting the decision (including the findings of any surveys, monitoring or assessments carried out in accordance with paragraph (4)(a)).

(6) The Welsh Ministers must communicate the grounds for a decision under paragraph (3) to the European Commission with the documentation provided under paragraph (5) supporting the decision.

- (7) Where—
 - (a) a decision has previously been made under paragraph (3), and
 - (b) the local authority is no longer satisfied that the basis for the decision exists,

the exclusion from monitoring under paragraph (3) will no longer apply and the local authority must inform the Welsh Ministers in writing accordingly.

(8) In case of naturally occurring radionuclides, where previous results (including representative surveys, monitoring data or other reliable information) show that the concentration of radionuclides in a supply within a local authority's area is stable, the minimum sampling and analysis frequencies are to be decided by the local authority, and confirmed by notice in writing to the Welsh Ministers, taking into consideration the risk to human health.

Monitoring of radioactive substances: supplies to specified single dwellings

13.—(1) This regulation applies to a private water supply to a single dwelling not provided as part of a commercial or public activity or as part of a domestic tenancy.

(2) A local authority may monitor a supply falling within paragraph (1) for the parameters contained in Table D in Part 3 of Schedule 1 in accordance with Schedule 3 and Part 3 of Schedule 4, and must do so if requested to do so by the owner or occupier.

Sampling and analysis

14.—(1) When a local authority monitors a private water supply it must take a sample—

- (a) if the water is supplied for domestic purposes, from a tap normally used to supply water for human consumption, and which, if there is more than one tap, is representative of the water supplied to the premises;
- (b) if the water is used in a food production undertaking, at the point at which it is used in the undertaking;
- (c) if the water is supplied from a tanker, at the point at which it emerges from the tanker;
- (d) in any other case at a suitable point.

(2) A random daytime sample of one litre volume must be taken from a consumer's tap without prior flushing for the purpose of sampling for the copper, lead and nickel parameters.

(3) Sampling under this regulation—

- (a) for chemical parameters in the distribution network must be undertaken in accordance with ISO 5667-5, other than where the sample is taken from a consumer's tap;
- (b) for microbiological parameters must be undertaken in accordance with—
 - (i) EN ISO 19458 sampling purpose A in the distribution network; and
 - (ii) EN ISO 19458 sampling purpose B at the consumer's tap.

(4) The local authority must ensure that the sample is analysed in accordance with Schedule 4.

New supplies

15.—(1) Where a local authority becomes aware of a private water supply that is to be, or is being, used for the first time (or for the first time after being out of use for a period of 12 months or more), the requirements of regulation 6 to 14 and 16 to 19 must be complied with as soon as reasonably practicable.

(2) A private water supply must not be brought into use or used until the local authority is satisfied that the supply does not constitute a potential danger to human health.

Records

16.—(1) A local authority must make and keep records in respect of every private water supply in its area in accordance with Schedule 5.

(2) By 31 January of every year, a local authority must—

- (a) send the Chief Inspector of Drinking Water a copy of the records referred to in paragraph (1); and
- (b) upon request, send the Welsh Ministers a copy of those records.

PART 3

Action in the event of failure

Provision of information

17. If a local authority considers that a private water supply in its area is a potential danger to human health it must promptly take appropriate steps to ensure that people likely to consume water from it—

- (a) are informed that the supply constitutes a potential danger to human health;
- (b) where possible, are informed of the nature and degree of the potential danger; and
- (c) are given advice to allow them to minimise any such potential danger.

Investigation

18.—(1) Where a local authority suspects that a private water supply fails to comply with—

- (a) the requirements of regulation 4, or
- (b) the concentrations or values in Part 2 or Part 3 of Schedule 1 for an indicator parameter,

it must carry out an investigation to establish the cause of the failure.

(2) Once a local authority has carried out an investigation and established the cause of the failure, it must act in accordance with paragraphs (3) to (5).

(3) If the cause of the failure is due to the distribution system within a domestic premises (whether or not the water is made available to the public in those premises) the local authority must promptly inform the people likely to be affected and offer them advice on measures necessary for the protection of human health.

(4) In addition to the duty in paragraph (3) (where it applies), the local authority must act in accordance with paragraph (5) if the cause of the failure is due to—

- (a) the distribution system within domestic premises where water is made available to the public; or
- (b) a distribution system not within domestic premises.

(5) Where this paragraph applies, the local authority must—

- (a) if the water is a potential danger to human health and the conditions in regulation 20 are fulfilled, serve a notice under that regulation; or
- (b) within 28 days of establishing the cause of the failure, and if appropriate remedial action has not been taken, serve a notice in accordance with section 80 of the Act (remedial powers of local authorities in relation to private supplies) unless the local authority grants an authorisation in accordance with regulation 19(2).

(6) Where this regulation applies and a local authority's monitoring obligations in respect of the supply have previously been reduced (or otherwise varied) under Schedule 2 to these Regulations, such variation is to cease immediately and the standard frequencies outlined in Tables 2 and 3 in Schedule 2 must be reinstated.

Authorisations of different standards

19.—(1) Any relevant person may apply to a local authority for the grant of an authorisation under this regulation.

(2) A local authority may grant an authorisation of different standards under this regulation if—

- (a) the only cause of the water being unwholesome is that a parameter in Table B of Part 1 of Schedule 1 (chemical parameters) is not complied with;
- (b) the local authority has consulted all water users who will be affected by the authorisation and the Public Health Wales National Health Service Trust and has taken their views into account;
- (c) granting the authorisation does not cause a potential danger to human health; and
- (d) the private water supply cannot be maintained by any other reasonable means.

(3) An authorisation must require the applicant to take action over a period of time to ensure that the necessary parameters are complied with, and must specify—

- (a) the person to whom the authorisation is granted;
- (b) the private water supply concerned;
- (c) the grounds for granting the authorisation;
- (d) the parameters concerned, previous relevant monitoring results, and the maximum permissible values under the authorisation;
- (e) the geographical area, the estimated quantity of water supplied each day, the number of persons supplied and whether or not any food production undertaking is affected;
- (f) an appropriate monitoring scheme, with an increased monitoring frequency where necessary;
- (g) a summary of the plan for the necessary remedial action, including a timetable for the work and an estimate of the cost and provisions for reviewing progress; and
- (h) the duration of the authorisation.

(4) If a local authority grants an authorisation, and the person to whom it is granted takes action in accordance with the timetable specified in the authorisation, the local authority may not serve a notice under section 80 of the Act concerning the matters specified in the authorisation without first amending or revoking the authorisation.

(5) The duration of the authorisation must be as short as possible and in any event may not exceed 3 years.

(6) The local authority must ensure that people supplied are promptly informed of the authorisation and its conditions and, where necessary, ensure that advice is given to particular groups for which the authorisation could present a special risk.

(7) If the private water supply exceeds 1,000 m³ a day as an average or serves more than 5,000 persons the local authority must send a copy of the authorisation to the Chief Inspector of Drinking Water and the Welsh Ministers within 1 month.

(8) The local authority must keep the progress of the remedial action under review.

(9) If necessary, the local authority may grant a second authorisation for up to a further 3 years with the prior consent of the Welsh Ministers, but if it does so it must, as soon as is reasonably practicable, send a copy of the authorisation together with the grounds for its decision to the Chief Inspector of Drinking Water and the Welsh Ministers.

(10) The local authority may revoke or amend the authorisation at any time, and in particular may revoke or amend it if the timetable for remedial action has not been adhered to.

PART 4

Notice procedure

Notices

20.—(1) If any private water supply constitutes a potential danger to human health, a local authority must serve a notice under this regulation on the relevant person instead of a notice under section 80 of the Act.

(2) The notice must—

- (a) identify the private water supply to which it relates;
- (b) specify the grounds for serving the notice;
- (c) prohibit or restrict the use of that supply;
- (d) specify what other action is necessary to—
 - (i) protect human health;
 - (ii) restore the wholesomeness of the private water supply;
 - (iii) maintain the continued wholesomeness of the private water supply following its restoration; and
- (e) specify the date by which the action required must be taken.

(3) The local authority must promptly inform consumers of the private water supply to which the notice relates and provide any necessary advice.

(4) The notice may be subject to conditions and may be amended by further notice at any time.

(5) The local authority must revoke the notice as soon as it becomes aware that there is no longer a potential danger to human health.

(6) It is an offence for a relevant person on whom a notice is served under this regulation to fail to comply with it.

(7) Where a relevant person (“P”) fails to take the action required by the date specified in a notice served under paragraph (1), the local authority which served the notice may take such action themselves.

(8) Where any action is taken by a local authority under paragraph (7) in relation to any premises—

- (a) the local authority may recover from P any expenses reasonably incurred by it in taking that action; and
- (b) where a person, other than the local authority, is liable to make payments to P, sums paid by virtue of sub-paragraph (a) are to be deemed to be expenses incurred in the taking of action by P.

Appeals

21.—(1) Any person who is aggrieved by a notice served under regulation 20 may appeal to a magistrates’ court within 28 days of service of the notice.

(2) The procedure on an appeal to a magistrates’ court under paragraph (1) is by way of complaint, and the Magistrates’ Courts Act 1980(**13**) applies to the proceedings.

(3) A notice remains in force unless suspended by the court.

(4) On an appeal, the court may either cancel the notice or confirm it, with or without modification.

Penalties

22.—(1) A person who commits an offence under regulation 20 is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding 3 months or both; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or both.

(2) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

that person is guilty of the offence as well as the body corporate.

(3) In paragraph (2), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

PART 5

Miscellaneous

Fees

23. Schedule 6 makes provision for fees.

Revocations

24.—(1) The following instruments are revoked—

- (a) the 2010 Regulations;
- (b) the Private Water Supplies (Wales) (Amendment) Regulations 2010(**14**);
- (c) the Private Water Supplies (Wales) (Amendment) (No. 2) Regulations 2010(**15**); and
- (d) the Private Water Supplies (Wales) (Amendment) Regulations 2016(**16**).

(2) Paragraph 142 of Schedule 2 to the National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Savings Provisions) Order 2013(**17**) is revoked.

Consequential amendment

25. In regulation 21(7)(b) of the Water Supply (Water Quality) Regulations 2010(**18**), for “regulation 15 or 16 of the Private Water Supplies (Wales) Regulations 2010” substitute “regulation 18 of the Private Water Supplies (Wales) Regulations 2017”.

(14) S.I. 2010/147 (W. 22).

(15) S.I. 2010/1384 (W. 123).

(16) S.I. 2016/411 (W. 129).

(17) S.I. 2013/235.

(18) S.I. 2010/994 (W. 99); as amended by S.I. 2011/14 (W. 7), S.I. 2013/235, S.I. 2013/1387, S.I. 2016/410 (W. 128) and S.I. 2017/506.

Transitional provisions

26.—(1) On the coming into force of these Regulations—

- (a) an authorisation granted under regulation 17(2) of the 2010 Regulations which is in force immediately before the coming into force of these Regulations is taken to be an authorisation granted under regulation 19(2) of these Regulations;
- (b) a second authorisation granted under regulation 17(9) of the 2010 Regulations which is in force immediately before the coming into force of these Regulations is taken to be a second authorisation granted under regulation 19(9) of these Regulations;
- (c) a notice served under regulation 18 of the 2010 Regulations which is in force immediately before the coming into force of these Regulations (“an existing notice”) is taken to be a notice served under regulation 20 of these Regulations.

(2) An appeal may be made under regulation 21(1) of these Regulations against an existing notice if, on the date these Regulations come into force, the time for making an appeal under regulation 19(1) of the 2010 Regulations had not expired.

(3) A local authority which has—

- (a) reduced the frequency of sampling for a parameter under paragraph 2(2) in Part 1 of Schedule 2 (monitoring) to the 2010 Regulations, or
- (b) excluded a parameter from audit monitoring under paragraph 3(3) in Part 2 of Schedule 2 to the 2010 Regulations,

must upon the coming into force of these Regulations bring any such reduction or exclusion to an end, and instead begin to monitor in accordance with the provision made in Schedule 2 to these Regulations.

(4) A local authority may rely upon any data collected in the 36 month period ending with the day on which these Regulations come into force to justify any variation in monitoring under Part 4 of Schedule 2.

(5) Table 2 (prescribed performance characteristics for methods of analysis) in Schedule 4 remains in force until 23:59 on 31 December 2019 following which it is revoked for all purposes.

25 October 2017

Lesley Griffiths
Cabinet Secretary for Environment and Rural
Affairs, one of the Welsh Ministers