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STATUTORY INSTRUMENTS

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**2016 No. 614**

**The Water Supply (Water Quality) Regulations 2016**

**PART 8**

**Water treatment**

**Disinfection and other treatment arrangements**

**26.**—(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 licensed water supplier must—
- (a) design, operate and maintain the disinfection process so as to keep 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 consumers, 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 removes or renders harmless the concentration or value of any property of water, or 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 concentration or value of, any property or substance which would interfere with disinfection, and
    - (ii) to reduce turbidity to less than 1 NTU;
  - (c) water is supplied for regulation 4(1) purposes when it leaves a treatment works.

## **Risk assessment**

**27.**—(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 could constitute a potential danger to human health or is likely to be unwholesome.

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

(4) The Secretary of State 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.

(5) 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 or that is likely to be unwholesome, it must notify the Secretary of State specifying the relevant factors.

(6) On the coming into force of these Regulations, a notice given under regulation 27(5) of the 2000 Regulations which had effect immediately before the coming into force of these Regulations is taken to be a notice given under paragraph (4) of this regulation.

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

**28.**—(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 27, it must submit to the Secretary of State 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 could constitute a potential danger to human health or could be unwholesome, a statement confirming this;
- (c) where the assessment or review establishes that measures have been taken to remove a significant risk of supplying water that could constitute a potential danger to human health or be unwholesome—
  - (i) monitoring data which verifies this;
  - (ii) details of those measures.

(3) Where the assessment or review establishes that there is a significant risk of supplying water that could constitute a potential danger to human health or could be unwholesome, 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;
- (b) specify the measures to mitigate the risk that the water undertaker or combined licensee—
  - (i) has made operational as at the date of the report, and
  - (ii) intends to make operational.

(4) Where the Secretary of State has received a report which states that there is or has been a significant risk of supplying water that could constitute a potential danger to human health or could be unwholesome, the Secretary of State 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 Secretary of State considers appropriate to mitigate the risk;
  - (b) to review, revise or make operational such specified measures by such date as the Secretary of State considers 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;
  - (e) to give the Secretary of State such information as the Secretary of State 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 Secretary of State may, by notice served on the relevant undertaker or licensed water supplier, revoke or vary a notice served under paragraph (4).
- (7) On the coming into force of these Regulations, a notice given under regulation 28(4) of the 2000 Regulations which had effect immediately before the coming into force of these Regulations is taken to be a notice given under paragraph (4) of this regulation.

#### **Water treatment to minimise contamination from pipes**

**29.**—(1) Paragraph (2) applies where there is a risk (“the prescribed risk”) that water supplied by a relevant supplier would, for the reason mentioned in paragraph (3), after leaving the relevant supplier’s pipes—

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

(2) Every water undertaker or combined licensee which introduces water into the supply system used by the relevant supplier must, subject to paragraph (4), treat the water in such a way as will, in its opinion, eliminate the prescribed risk or reduce it to a minimum.

(3) 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) of the Act<sup>(1)</sup>, or its associated fittings.

- (4) Paragraph (1) does not require a water undertaker or combined licensee to treat water if—
- (a) the treatment is unlikely to achieve a significant reduction in the concentration of copper or lead, or
  - (b) treatment is not reasonably practicable.

#### **Replacement of lead pipes**

**30.**—(1) The relevant supplier must modify or replace its part of the pipe where a relevant supplier—

- (a) has received from the owner of premises to which water is so supplied notice in writing of—
  - (i) the owner’s intention to replace so much of the pipe as belongs to him, and
  - (ii) the owner’s desire that the relevant supplier replaces the remainder of the pipe, and
- (b) has reason to believe that water supplied by it for regulation 4(1) purposes from a pipe to which paragraph (2) applies contains, or is likely to contain, at the consumer’s tap, a concentration of lead which exceeds 10µg/litre.

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(1) Section 68(3) was amended by paragraph 18(5) of Schedule 8 to the Water Act 2003 (c.37).

- (2) 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) of which part belongs to a relevant supplier and of which the remainder belongs 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) Subject to paragraph (2), 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.

- (2) A substance or product which, at the time of its application or introduction—
  - (a) bears an appropriate CE marking in accordance with the Construction Products Regulation, or
  - (b) conforms to an appropriate British Standard or some other appropriate standard of an EEA state or Turkey 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.

- (3) Paragraph (2) applies only if such an application or introduction complies with—
  - (a) such 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 Secretary of State by an instrument in writing;
  - (b) such other requirements, within the meaning of the Technical Standards Directive, in relation to such substances and products, as have been communicated to the European Commission in the form of a draft technical regulation in accordance with Article 5 of that Directive, and whose adoption by a member State has also been communicated to the European Commission.

- (4) The requirements of this paragraph are that—
  - (a) the Secretary of State has 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) the Secretary of State is satisfied that the application or introduction of the substance or product either alone or in combination with any other substance or product in the water is unlikely to adversely affect the quality of the water supplied;
  - (c) 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 Secretary of State not less than 3 months' notice in writing of its intention so to apply or introduce the substance or product.

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

(6) If the Secretary of State decides to issue an approval under paragraph 4(a), the Secretary of State may include in the approval such conditions as the Secretary of State considers appropriate and, in accordance with paragraph (10), may at any time revoke or vary any approval that the Secretary of State 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 must be discontinued

within 12 months of the date on which they were first applied or introduced or, if the Secretary of State 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 Secretary of State may, by notice given in writing to any water undertaker or combined licensee, prohibit it 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 licensee would otherwise be authorised to apply or introduce by virtue of—

- (a) paragraphs (1) and (4)(b) or (c), or
- (b) paragraph (2).

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

(10) Subject to paragraph (11), the Secretary of State may—

- (a) revoke by an instrument in writing any approval given by him under paragraph (4)(a);
- (b) vary 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).

(11) Unless the Secretary of State is satisfied that it is necessary to do so in the interests of public health without notice, the Secretary of State must not act under paragraph (10) without giving all such persons as are, in the Secretary of State's opinion, likely to be affected by the revocation or variation of the approval or by the giving of the notice, at least 6 months' notice in writing.

(12) Notwithstanding paragraph (11), the Secretary of State must give immediate notice to all persons likely to be affected by the revocation or variation of an instrument mentioned in paragraph (10)(a) or (b).

(13) At least once in each year the Secretary of State must issue a list of all the substances and products, with particulars of the action taken, in relation to which—

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

(14) The Secretary of State may—

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

(15) In this regulation—

- (a) “the Construction Products Regulation” means Regulation (EU) No 305/2011 of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products<sup>(2)</sup>;
- (b) “the Technical Standards Directive” means Directive (EU) 2015/1535 of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services<sup>(3)</sup>.

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(2) OJ No L 88, 4.4.2011, p 5, as last amended by Commission Delegated Regulation (EU) No 574/2014 (OJ No L 159, 28.5.2014, p 41).

(3) OJ No L 241, 17.9.2015, p 1.

- (16) On the coming into force of these Regulations—
- (a) an approval given under regulation 31(4)(a) of the 2000 Regulations which had effect immediately before the coming into force of these Regulations is taken to be a notice given under paragraph (4)(a) of this regulation;
  - (b) a notice given under regulation 31(7) or (8) of the 2000 Regulations which had effect immediately before the coming into force of these Regulations is taken to be a notice given under paragraph (7) or (8) respectively of this regulation.

### **Use of processes**

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

(2) The Secretary of State may refuse the application or impose on any approval given for the purposes of this regulation such conditions as the Secretary of State thinks 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 revoke or vary any condition imposed by virtue of this paragraph.

(3) Subject to paragraph (4), unless the Secretary of State has given to the water undertaker or combined licensee at least 6 months' notice in writing of the Secretary of State's intention to revoke, vary or prohibit, as the case may be, the Secretary of State must not—

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

(4) Paragraph (3) does not apply in any case in which the Secretary of State is of the opinion that the immediate revocation, modification or prohibition is necessary in the interests of public health.

(5) Regulation 31(13) applies for the purposes of this regulation, to be read as if—

- (a) for the reference to substances or products there were substituted a reference to processes;
- (b) for the reference to paragraph (4)(a) there were substituted a reference to this regulation; and
- (c) for the reference to paragraph (8) there were substituted a reference to paragraph (1) of this regulation.

(6) On the coming into force of these Regulations—

- (a) a notice given under regulation 32(1) of the 2000 Regulations which had effect immediately before the coming into force of these Regulations is taken to be a notice given under paragraph (1) of this regulation;
- (b) an approval given under regulation 32(2) of the 2000 Regulations which had effect immediately before the coming into force of these Regulations is taken to be an approval given under paragraph (2) of this regulation.

### **Offences**

**33.**—(1) A water undertaker or combined licensee which contravenes regulation 26(1) or (4) or the terms of a notice served under regulation 28(4)(d) is guilty of an offence and liable on summary conviction, or 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 is 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—

- (a) applies or introduces any substance or product in contravention of regulation 31(1) or a notice given under regulation 31(8), or
- (b) 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),

is guilty of an offence and liable on summary conviction, or on conviction on indictment, to a fine.

(4) If any person, in furnishing any information or making an application under regulation 31 or 32, makes any statement which that person knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, that person is guilty of an offence and liable on summary conviction, or on conviction on indictment, to a fine.

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