
EXPLANATORY NOTE

(This note is not part of the Regulations)

^{M1}These Regulations amend various instruments to further transpose Council Directive 98/83/EC on the quality of water intended for human consumption (“the Directive”).

^{M2M3M4M5}The Directive was first transposed in relation to the public water supply by the Water Supply (Water Quality) (Scotland) Regulations 2001 (“the 2001 Regulations”) and in relation to private water supplies, by the Private Water Supplies (Scotland) Regulations 2006 (“the 2006 Regulations”), the Private Water Supplies (Grants) (Scotland) Regulations 2006 and the Private Water Supplies (Notices) (Scotland) Regulations 2006 .

^{M6}Regulation 2 of these Regulations introduces 3 new sections into Part VIA of the Water (Scotland) Act 1980 (“the 1980 Act”). The new sections address the treatment of water quality failures in premises in which water is supplied to the public, where those failures are attributable to the domestic distribution system, e.g. the pipes and fittings, of the premises in question. The new sections refer to this particular type of failure as a “relevant water quality issue”. The sections transpose the requirements of Article 6(2) (together with Article 8) of the Directive.

New section 76FA of the 1980 Act requires local authorities to investigate relevant water quality issues to determine their cause and to report the findings of the investigation to Scottish Ministers. New section 76FB requires local authorities to serve a notice on the person responsible for the domestic distribution system (“the responsible person”), for the purposes of ensuring a wholesome water supply and of protecting human health. The notice must specify the steps which the local authority require the responsible person to take in relation to the relevant water quality issue. New section 76FB also requires local authorities to inform consumers of any remedial action taken under, or pursuant to, a notice served under the section (unless the local authority consider the failure to be trivial). New section 76FC makes provision in relation to the effect of a notice served under section 76FB and introduces an offence of failure to comply with a notice without reasonable excuse. The penalty on summary conviction is a fine not exceeding level 5 on the standard scale.

Regulation 3 amends section 76G of the 1980 Act to prevent a notice being served under both that section and new section 76FB in respect of a relevant water quality issue.

Regulation 4 amends section 76HA of the 1980 Act to modify section 76H in respect of private water supplies, within the meaning of the 2006 Regulations. The modifications introduced by regulation 4 require local authorities, when dealing with a supply which constitutes a potential risk to human health, to require by notice served under section 76G such steps as may be necessary to protect human health. Regulation 5 inserts some relevant definitions into section 76L of the 1980 Act.

^{M7}Regulation 6 amends the Water Industry (Scotland) Act 2002 to require the Drinking Water Quality Regulator for Scotland to notify those persons affected by a contravention of a drinking water quality duty (e.g. a failure in water quality) that the public water supplier (i.e. Scottish Water) has rectified the contravention.

Regulations 7-14 amend the 2001 Regulations in consequence of the new sections 76FA-FC of the 1980 Act and to further transpose the Directive. Regulation 7(4) introduces a new paragraph (5A) into regulation 17 of the 2001 Regulations (investigations: Schedule 1 parameters). This requires the water authority (i.e. Scottish Water) to inform consumers where it has identified a failure in water quality which constitutes a potential risk to human health and to provide details of the steps which consumers should take in the interests of their health. Equivalent provision is made by regulation 8(4) in respect of regulation 18 of the 2001 Regulations (investigations: Schedule 2 indicator parameters).

Changes to legislation: There are currently no known outstanding effects for the *The Water Quality (Scotland) Regulations 2010*. (See end of Document for details)

Regulation 9 introduces a new regulation 18A into the 2001 Regulations. This places Scottish Water under a duty to take remedial action in relation to any failure in water quality arising from the public supply system. Where the failure poses a risk to human health (including those circumstances where the risk to health is caused by a failure of an indicator parameter) new regulation 18A requires the water authority to take such action as is necessary to protect human health. Scottish Water is also placed under a duty to inform consumers of any remedial action taken in relation to a supply (unless it considers that the failure was trivial).

Regulation 11 amends regulation 20 of the 2001 Regulations and has the effect of restricting authorised departures to those parameters contained in Table B of Schedule 1 to the 2001 Regulations (chemical parameters) only.

Regulation 13 amends regulation 25 of the 2001 Regulations. It places Scottish Water under an obligation to keep disinfection by- products to a minimum without compromising the performance of the disinfection and to verify the performance of the disinfection process.

Regulation 14 substitutes Tables 2, 3 and 4 in Schedule 3 to the 2001 Regulations.

Regulations 15- 20 amend the 2006 Regulations in consequence of the new sections 76FA- FC of the 1980 Act and to further transpose the Directive. Regulation 15 introduces a duty on the relevant person to keep disinfection by- products to a minimum without compromising the performance of the disinfection.

Regulations 17(6) and 18(7) require local authorities to direct the relevant (or responsible) person to inform consumers of any failure in water quality which constitutes a potential risk to human health.

Regulation 18(2)(b) amends regulation 18(1)(c) of the 2006 Regulations (investigations: Schedule 1 indicator parameters). It has the effect of requiring local authorities to identify whether or not a failure in relation to any parameter in Schedule 1 to the 2006 Regulations is attributable to the domestic distribution system of the premises in question, or to the maintenance of that system. Previously this duty was restricted to failures in coliform bacteria or colony count parameters only. Regulation 19 introduces a new regulation 18A into the 2006 Regulations which requires local authorities to notify consumers of remedial action performed under, or pursuant to a notice served under section 76G of the 1980 Act.

Regulation 20 amends regulation 34 of the 2006 Regulations and requires local authorities to include details of any notices served under new section 76FB of the 1980 Act in a public register.

Changes to legislation:

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