
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 95

The Water Quality (Scotland) Regulations 2010

Amendment of the Water (Scotland) Act 1980

2. After section 76F of the 1980 Act (general functions of local authorities in relation to water quality), insert—

“Domestic distribution failures where water is supplied to the public

76FA.—(1) A local authority must immediately investigate to determine the cause of a “relevant water quality issue”, being an issue relating to water quality which—

- (a) affects premises where water is supplied to the public (such as schools, hospitals and restaurants) within the area of the local authority;
- (b) is attributable to the domestic distribution system (within the meaning of Article 2.2 of Council Directive [98/83/EC](#) on the quality of water intended for human consumption) of those premises, or to the maintenance of that system; and
- (c) requires, or would require, notification to the Scottish Ministers under—
 - (i) regulation 17(5) of the Water Supply (Water Quality) (Scotland) Regulations 2001 ([SSI 2001/207](#));
 - (ii) regulation 18(2) of those Regulations;
 - (iii) regulation 17(3) of the Private Water Supplies (Scotland) Regulations 2006 ([SSI 2006/209](#)); or
 - (iv) regulation 18(2) of those Regulations.

(2) On completion of the investigation mentioned in subsection (1) above the local authority must, as soon as possible, report the findings of the investigation to the Scottish Ministers.

- (3) A report under subsection (2) above must set out—
 - (a) what, in the opinion of the local authority, is the cause of the relevant water quality issue;
 - (b) whether, in the opinion of the local authority, the relevant water quality issue constitutes a potential risk to human health; and
 - (c) any steps which the local authority intend to require by notice under section 76FB.

(4) On receipt of a report under subsection (2) above the Scottish Ministers may, in relation to the relevant water quality issue, give the local authority a direction as to the exercise of their functions under sections 76FA to 76FC.

- (5) In particular, a direction under subsection (4) above may—
 - (a) specify any advice which the local authority must require to be given to consumers in relation to the relevant water quality issue by notice under section 76FB(3)(d) below;
 - (b) specify any steps which the local authority must require to be taken under section 76FB(3)(b) and (e) below; and

- (c) specify the period which the local authority must require under section 76FB(3) (c) below.
- (6) A local authority must comply with a direction given under subsection (4) above.
- (7) Where a local authority conduct an investigation under subsection (1) above (and the investigation confirms the existence of a relevant water quality issue) the authority may recover the expenses reasonably incurred by the authority in conducting that investigation from the responsible person.

Remedial powers of local authorities where domestic distribution failure affects supply to public

76FB.—(1) This section applies where a local authority have completed an investigation under section 76FA(1) above.

(2) A local authority must serve a notice on the person who owns or is otherwise responsible for the domestic distribution system of the premises affected by the relevant water quality issue (the “responsible person”) for the purposes of ensuring a wholesome supply and protecting human health.

(3) A notice served under this section must—

- (a) give particulars of the relevant water quality issue in respect of which the notice is served;
- (b) specify any steps which the local authority require to be taken for the purposes of ensuring a wholesome supply and protecting human health;
- (c) specify a period for the performance of each step;
- (d) specify the advice (if any) which the local authority require the responsible person to communicate to consumers of the supply;
- (e) specify any steps which the local authority require to be taken for the purpose of communicating such advice;
- (f) specify a period ending not less than 28 days after the day on which the notice is served within which any representations or objections with respect to the notice must be received by the local authority; and
- (g) state the effect in relation to that notice of section 76FC below.

(4) Where the local authority consider that a relevant water quality issue (including a relevant water quality issue relating to an indicator parameter) constitutes a potential risk to human health, the local authority must—

- (a) require the taking of such steps under subsection (3)(b) above as the authority consider necessary to protect human health; and
- (b) require advice to be given to consumers under subsection (3)(d).

(5) In requiring the taking of such steps as may be necessary to comply with subsection (4)(a) above, the local authority and the Scottish Ministers must take into account the risks to human health which would be caused by an interruption of the supply or a restriction in the use of water intended for human consumption (within the meaning of Article 2.1 of Council Directive [98/83/EC](#) on the quality of water intended for human consumption).

(6) The provisions of section 76G(3) below shall have effect in relation to notices served under this section and the reference to a “relevant person” in that subsection shall be construed as a reference to a “responsible person” for the purposes of this section.

(7) Once the period specified for performance of a step required by a notice under this section has expired, a local authority must notify the Scottish Ministers as soon as possible of any actions taken by the responsible person and the local authority pursuant to, or in consequence of, the requirement to take the step.

(8) Unless a local authority consider a relevant water quality issue to be of a trivial nature, the authority must take such steps as the authority consider necessary to ensure that consumers are notified of any remedial action taken under, or pursuant to, a notice served under this section.

(9) In this section “indicator parameter” means a parameter listed in—

- (a) Part II of Table B in Schedule 1 to the Water Supply (Water Quality) (Scotland) Regulations 2001 ([SSI 2001/207](#));
- (b) Schedule 2 to those Regulations;
- (c) Part II of Table B in Schedule 1 to the Private Water Supplies (Scotland) Regulations 2006 ([SSI 2006/209](#)); or
- (d) Table C in Schedule 1 to those Regulations.

Effect, confirmation and variation of a notice under section 76FB

76FC.—(1) The provisions of section 76H(1) to (10) below shall have effect in relation to notices served under section 76FB above subject to the modifications set out in subsection (2) below.

(2) The modifications to section 76H are—

- (a) subsections (3)(c), (5)(b) and (5A) do not apply;
- (b) for “76G” in each place where it occurs substitute “76FB”;
- (c) for “relevant person” in both places where it occurs substitute “responsible person”;
- (d) for “76G(2)(c) and (d)” in both places where it occurs substitute “76FB(3)(f) and (g)”; and
- (e) in subsection (5)(a), omit the words “, except where the case is one to which paragraph (b) below applies,”.

(3) Any responsible person on whom a notice is served under section 76FB above, who fails without reasonable excuse to take any step as specified in the notice within the period so specified shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.