
SCOTTISH STATUTORY INSTRUMENTS

2014 No. 364

The Public Water Supplies (Scotland) Regulations 2014

PART 1

GENERAL

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Public Water Supplies (Scotland) Regulations 2014 and come into force on 1st January 2015.

(2) These Regulations extend to Scotland only.

(3) These Regulations do not apply in relation to a private water supply.

(4) These Regulations do not apply to—

(a) water recognised as a natural mineral water under regulation 4(1) of the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007⁽¹⁾;

(b) water which is a medicinal product within the meaning of [Directive 2001/83/EC](#) of the European Parliament and of the Council on the Community Code relating to medicinal products for human use⁽²⁾;

(c) water used exclusively for the purposes of washing a crop after it has been harvested where the quality of the water has no influence, either directly or indirectly, on the health of any person consuming the crop, or food or drink derived from the crop; and

(d) water used during the distillation of spirits which is used—

(i) exclusively in the mashing process;

(ii) exclusively for washing plant; or

(iii) in the mashing process and for washing plant, but for no other purposes,

where the quality of the water has no influence, either directly or indirectly, on the health of any person consuming the spirits, or food or drink derived from the spirits.

Interpretation

2.—(1) In these Regulations—

“the 1980 Act” means the Water (Scotland) Act 1980;

“the 2001 Regulations” means the Water Supply (Water Quality) (Scotland) Regulations 2001⁽³⁾;

(1) [S.S.I. 2007/483](#), relevantly amended by [S.S.I. 2009/273](#).

(2) OJ L 311, 28.11.2001, p.67, last amended by Directive 2012/26/EU of the European Parliament and of the Council (OJ L 299, 27.10.2012, p.1).

(3) [S.S.I. 2001/207](#), amended by [S.S.I. 2001/238](#), [S.S.I. 2003/331](#), [S.S.I. 2010/95](#), [S.S.I. 2013/177](#) and [S.I. 2013/1387](#).

“area”, in relation to a local authority, means the local government area (within the meaning of the Local Government etc. (Scotland) Act 1994(4)) for which the authority is constituted;

“by notice” means by notice in writing (or in electronic form);

“consumer” means a person to whom water is supplied for human consumption purposes by Scottish Water (and, if such water is supplied pursuant to an arrangement under section 6(1) (b) of the Water Services etc. (Scotland) Act 2005(5), it includes the occupier of the premises so supplied or, if the premises are unoccupied, the owner of those premises);

“the Directive” means Council Directive 98/83/EC on the quality of water intended for human consumption(6);

“disinfection” 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; and “disinfect” and “disinfected” are to be construed accordingly;

“groundwater” has the same meaning as it has in section 3(4) of the Water Environment and Water Services (Scotland) Act 2003(7);

“health board” means a Health Board constituted by order under section 2(1)(a) of the National Health Service (Scotland) Act 1978(8);

“human consumption purposes” means—

- (a) the purposes of drinking, cooking, food preparation or other domestic purposes (including the maintenance of personal hygiene); or
- (b) the purposes of the manufacture, processing, preservation or marketing of a product or substance intended for human consumption (unless the Drinking Water Quality Regulator for Scotland(9) is satisfied, having regard to the advice of the Food Standards Agency, that the quality of the water supplied by Scottish Water for these purposes cannot affect the wholesomeness of a particular product or substance in its finished form and has confirmed this, along with its reasons, by notice given to the Scottish Ministers, the Food Standards Agency and Scottish Water);

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

“occupier” has the same meaning as it has in section 109(1) of the 1980 Act;

“parameter” means a property, element, organism or substance listed in column (2) of any Table in Schedule 1, 2 or 3 (as read, where appropriate, with the notes to those Tables);

“premises” includes land (as construed in accordance with section 109(1) of the 1980 Act) and also tents, vans, sheds and similar structures;

“prescribed concentration or value”, in relation to a parameter, means the corresponding maximum or minimum concentration, value or state specified (or otherwise applying by virtue of a departure authorised by the Scottish Ministers under regulation 24(1) or 25(5) or granted by the European Commission pursuant to a request under regulation 25(7)) in relation to that parameter in Table A, Table B or, as the case may be, Table C as measured by reference to the unit of measurement so specified, and as read (where relevant) with the notes to those Tables;

“private domestic distribution system” means a domestic distribution system in premises where water is not supplied to the public;

(4) 1994 c.39.

(5) 2005 asp 3.

(6) OJ L 330, 5.12.1998, p.32, amended by Corrigendum (OJ L 111, 20.4.2001, p.31), Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p.1) and Regulation (EC) No 596/2009 (OJ L 188, 18.7.2009, p.14).

(7) 2003 asp 3, to which there are amendments not relevant to these Regulations.

(8) 1978 c.29, to which there are amendments not relevant to these Regulations.

(9) This is the person who is from time to time appointed under section 7 of the Water Industry (Scotland) Act 2002 (asp 3).

“private water supply” has the same meaning as it has in regulation 2(1) of the Private Water Supplies (Scotland) Regulations 2006⁽¹⁰⁾;

“Scottish Water” means the body corporate established by section 20(1) of the Water Industry (Scotland) Act 2002⁽¹¹⁾;

“supply point” means a blending point, service reservoir, treatment works or other point authorised in accordance with regulation 8, where “blending point” means a point at which waters originating from two or more sources and treated for the purposes of their supply for human consumption purposes are combined under conditions that are designed to secure that, after such combination, the requirements of regulation 4(2) are satisfied;

“treatment works” means water treatment works vested in Scottish Water or used by it (or a person acting on its behalf or under its authority) in connection with the exercise of Scottish Water’s core functions (construed by reference to section 70(2) of the Water Industry (Scotland) Act 2002⁽¹²⁾) as respects the supply of water for human consumption purposes;

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

“year” means calendar year.

(2) Subject to paragraph (3), references in these Regulations to a “service reservoir” are references to any structure, other than a structure at a treatment works, in which water that has been treated with a view to satisfying the requirements of regulation 4(2) is contained and stored for the purpose of meeting a variable demand for the supply of water.

(3) 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) is to be treated as a single service reservoir;
- (b) the compartments which are connected hydraulically are to be treated as a single service reservoir; and
- (c) unless all of the compartments are connected hydraulically, the structure as a whole is not to be treated as a service reservoir.

(4) A reference in these Regulations to—

- (a) Table A, Table B or Table C refers to the corresponding table in Schedule 1;
- (b) Table 1, Table 2, Table 3 or Table 4 refers to the corresponding table in Schedule 2; and
- (c) Table M1 or Table M2 refers to the corresponding table in Schedule 3.

(5) Any other expression (such as “domestic purposes”) used both in these Regulations and in the Directive has the same meaning in these Regulations as it has in the Directive.

⁽¹⁰⁾ S.S.I. 2006/209, to which there are amendments not relevant to these Regulations.

⁽¹¹⁾ 2002 asp 3.

⁽¹²⁾ Section 70(2) was substituted by the Water Resources (Scotland) Act 2013 (asp 5), section 26.

PART 2

WATER SUPPLY ZONES

Water supply zones

3.—(1) Before the beginning of each year in which it intends to supply water for human consumption purposes, Scottish Water must designate and name the areas within its area of supply that are to be 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 Scottish Water to exceed 100,000.

(3) A water supply zone may not comprise an area with significant variations in water quality.

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

PART 3

WHOLESOMENESS OF PUBLIC WATER SUPPLIES

Wholesomeness: public water supplies

4.—(1) Water supplied by Scottish Water for human consumption purposes is, subject to paragraphs (3) and (4), to be regarded as wholesome for the purposes of Part VIA of the 1980 Act (as it applies to water supplied for such purposes) only if the requirements in paragraph (2) are satisfied.

(2) The requirements are that the water—

(a) does not contain—

(i) any micro-organism;

(ii) any substance; or

(iii) any parasite,

at a concentration or value which would (whether in conjunction with another parameter in the water or otherwise) constitute a potential danger to human health;

(b) does not contain a parameter in Table A or Table B at a concentration or value in excess of or, as the case may be, less than the prescribed concentration or value for that parameter; and

(c) satisfies the formula “[nitrate]/50 + [nitrite]/3 ≤ 1”, where the square brackets signify the concentrations in mg/l for nitrate (NO₃) and nitrite (NO₂) respectively.

(3) The point (“point of compliance”) at which the requirements in paragraph (2), in so far as they relate to a parameter in Table A or Table B, 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; and

(c) in any other case, the point or points specified for that parameter in Table A or Table B.

(4) Water that—

(a) is transferred from a service reservoir;

(b) is intended for supply by Scottish Water for human consumption purposes; and

(c) exceeds the prescribed concentration or value for coliform bacteria (item 3) in Table A, is not to be regarded as unwholesome for the purposes of Part VIA of the 1980 Act if, in at least 95% of samples taken in any year in which the reservoir in question is in use, coliforms were absent.

PART 4

MONITORING OF PUBLIC WATER SUPPLIES

Application and interpretation

5.—(1) This Part applies only in relation to the supply of water for human consumption purposes by Scottish Water in the performance of its duties under Part VIA of the 1980 Act.

(2) In this Part—

“audit monitoring” means monitoring for the purpose of obtaining information from which it may be established, as regards a parameter in Table A, Table B or Table C, whether the concentration, value or state of the parameter in water supplied for human consumption purposes complies with the prescribed concentration or value for that parameter (at the point of compliance or, as the case may be, point of monitoring); and

“check monitoring” means monitoring for the purpose of obtaining information as to—

- (a) the organoleptic and microbiological quality of water; and
- (b) the effectiveness of any drinking-water treatment used (particularly of disinfection),

for the purpose of determining, as regards a parameter (in Table A, Table B or Table C) listed in Table 1, whether the concentration, value or state of the parameter in water supplied for human consumption purposes complies with the prescribed concentration or value for that parameter (at the point of compliance or, as the case may be, point of monitoring).

Monitoring: general provisions

6.—(1) For the purposes specified in paragraph (2), Scottish Water must, for each water supply zone—

- (a) take or have taken; and
- (b) analyse or have analysed,

not less than the number of samples of water required by this Part.

(2) The purposes are—

- (a) determining whether, within each water supply zone, water to which this Part applies satisfies the wholesomeness requirements of Part 3; and
- (b) establishing the quality of water to be supplied to each water supply zone.

(3) Subject to paragraph (4) and regulation 13 (water supplied by tanker), Scottish Water must carry out audit monitoring in relation to each parameter in Table A, Table B and Table C.

(4) Scottish Water must carry out check monitoring (instead of audit monitoring)—

- (a) in relation to each parameter in Table 1 for which there is no entry in column (3); and
- (b) in relation to each parameter in Table 1 for which there is an entry in column (3) but only when the circumstances in that entry apply.

(5) In the application of paragraph (4)(b) to—

- (a) aluminium (item 27) in Table B;

- (b) iron (item 29) in Table B;
- (c) manganese (item 30) in Table B; or
- (d) *Clostridium perfringens* (item 3) in Table C,

a supply of water which consists of both groundwater and surface water is to be treated as if it were a supply which consists only of surface water.

(6) The following parameters must be monitored in such manner as the Scottish Ministers may, by notice given to Scottish Water, specify—

- (a) copper (item 10) in Table B;
- (b) lead (item 15) in Table B;
- (c) nickel (item 17) in Table B;
- (d) subject to paragraph (7)(a), indicative dose (item 14) in Table C; and
- (e) subject to paragraph (7)(b), tritium (item 15) in Table C.

(7) The Scottish Ministers must, by notice given to Scottish Water, inform it that indicative dose (item 14) or, as the case may be, tritium (item 15) in Table C need not be monitored in relation to a water supply zone if they are satisfied that the water supplied to that zone for human consumption purposes—

- (a) in the case of indicative dose, gives rise to a calculated indicative dose that is, in the opinion of the Scottish Ministers, significantly below the prescribed concentration or value for that parameter; or
- (b) in the case of tritium, contains levels of tritium that are, in the opinion of the Scottish Ministers, significantly below the prescribed concentration or value for that parameter.

(8) The Scottish Ministers must, by notice given to Scottish Water, withdraw a notice given under paragraph (7)—

- (a) in relation to indicative dose, if they are no longer of the opinion that water supplied to the zone for human consumption purposes gives rise to a calculated indicative dose that is significantly below the prescribed concentration or value for that parameter; and
- (b) in relation to tritium, if they are no longer of the opinion that water supplied to the zone for human consumption purposes contains levels of tritium that are significantly below the prescribed concentration or value for that parameter.

(9) Where Scottish Water receives a notice under paragraph (8), it must monitor the indicative dose or, as the case may be, tritium in accordance with any notice in relation to that parameter having effect for the time being under paragraph (6)(d) or, as the case may be, paragraph (6)(e).

Random samples from consumers' taps

7.—(1) Where a sample of water must, under this Part, be taken from a consumer's tap within a water supply zone, the tap must be selected at random unless the Scottish Ministers otherwise direct (in exercise of powers under section 56(3) of the Water Industry (Scotland) Act 2002(13)).

(2) Paragraph (1) does not apply if the sample is to be taken instead from an alternative point within the same water supply zone which is authorised for that purpose under regulation 8.

Authorisation of samples from alternative points

8.—(1) The Scottish Ministers may in relation to any parameter in Table A, Table B or Table C, on the application in writing (or in electronic form) of Scottish Water, authorise the use (for the

(13) 2002 asp 3.

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.

(2) The Scottish Ministers must not grant an authorisation under paragraph (1) unless they are satisfied that analysis of samples taken from any point to be so authorised (“supply 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 any sampling point within the same water supply zone.

(3) Subject to paragraph (4), the Scottish Ministers may at any time modify or revoke an authorisation under paragraph (1).

(4) Unless it appears to the Scottish Ministers that an immediate modification or revocation of an authorisation under paragraph (1) is required in the interests of public health, they must not modify or revoke such an authorisation without giving to Scottish Water at least 6 weeks’ notice of their intention to modify or revoke.

(5) Scottish Water must notify the Scottish Ministers as soon as it has reasonable grounds for believing that an analysis of samples taken for a water supply zone from a supply 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 sampling point within that zone.

(6) The Scottish Ministers must, on being notified under paragraph (5) and without the need for prior notice to Scottish Water, revoke the authorisation.

(7) In this regulation, “sampling point” means—

- (a) in the case of water supplied from a distribution network, a consumer’s tap; and
- (b) in the case of water supplied from a tanker, the point at which it emerges from the tanker.

Numbers of samples

9.—(1) Subject to regulations 11 and 12 and paragraph (2), in each year Scottish Water must take, or cause to be taken (for each water supply zone)—

- (a) from sampling points; or
- (b) to the extent authorised under regulation 8, from alternative supply points,

the standard number of samples for each parameter in Table 2 or, as the case may be, Table 3.

(2) Where, in respect of a parameter in Table A, Table B or Table C that is subject to check monitoring (in accordance with regulation 6(4) as read with the Tables 1 to 4 in Schedule 2)—

- (a) Scottish Water considers that the quality of water supplied by it to a water supply zone is unlikely to deteriorate; and
- (b) the conditions in paragraph (3) are met,

the number of samples to be taken in the following year for that parameter may be the reduced number of samples for that parameter in Table 2 or, as the case may be, Table 3.

(3) The conditions are that in each of two successive years—

- (a) the results of samples taken in accordance with these Regulations show no significant variation; and
- (b) if the parameter in question is—
 - (i) *Escherichia coli* (item 2) in Table A, it has not exceeded 0;
 - (ii) *Clostridium perfringens* (item 3) in Table C, it has not exceeded 0;
 - (iii) coliform bacteria (item 4) in Table C, it has not exceeded 0;
 - (iv) colony count (item 5) in Table C, it has shown no abnormal change;

- (v) hydrogen ion (item 8) in Table C, it has maintained a pH value that is not less than 6.5 and not more than 9.5;
 - (vi) total organic carbon (item 12) in Table C, it has shown no abnormal change; or
 - (vii) any other parameter, it has maintained a concentration or value that is significantly lower than the prescribed concentration or value.
- (4) Samples required to be taken by this regulation must be taken at regular intervals.
- (5) In this regulation—
- (a) “sampling points” is to be construed in accordance with regulation 8(7);
 - (b) “the reduced number” means—
 - (i) for sampling points, the applicable number in column (4) of Table 2; and
 - (ii) for a supply point, the applicable number in column (4) of Table 3; and
 - (c) “the standard number” means—
 - (i) for sampling points, the applicable number in column (5) of Table 2; and
 - (ii) for a supply point, the applicable number in column (5) of Table 3.

Additional sampling

10. As soon as Scottish Water has reasonable grounds for believing that any element, organism or substance (other than residual disinfectant or a parameter in Table A, Table B or Table C), whether alone or in combination with any other such parameter or any other element, organism or substance, may cause the supply within a water supply zone to be a supply which does not satisfy the requirements of Part 3, 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 to establish whether that water is wholesome.

Sampling at treatment works

11.—(1) Subject to paragraphs (2) and (3), in each year Scottish Water must take, or cause to be taken, from the point at which water leaves each treatment works which serves a water supply zone, the standard number of samples for analysis to determine—

- (a) the concentration of residual disinfectant;
- (b) whether water leaving the treatment works complies with the prescribed concentration or value for—
 - (i) coliform bacteria (item 3) in Table A;
 - (ii) *Escherichia coli* (item 4) in Table A; and
 - (iii) nitrite (item 19) in Table B (where the point of compliance is a treatment works);
 - (iv) colony count (item 5) in Table C; and
 - (v) turbidity (item 13) in Table C.

(2) Where, in each of two successive years, the analysis of samples taken in accordance with these Regulations establishes that—

- (a) for coliform bacteria, *Escherichia coli*, nitrite or turbidity (as the case may be), the prescribed concentration or value has not been exceeded; or
- (b) for colony count, there has been no significant increase in the count,

the number of samples to be taken in the following year in respect of that parameter from the point at which water leaves that treatment works may, subject to paragraph (3), be the reduced number.

(3) For coliform bacteria or, as the case may be, *Escherichia coli*, the reduced number of samples may be taken only if Scottish Water considers that—

- (a) there is no foreseeable risk that the supply will exceed the prescribed concentration or value for that parameter; or
- (b) 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 treatment works is in use for only part of a year, the number of samples that must, under this regulation, be taken during that year (from the point at which water leaves the works) may be reduced in proportion to the number of days in that year that the works has not been in use.

(6) In this regulation—

“the reduced number” means the applicable number (if any) in column (4) of Table 4; and

“the standard number” means the applicable number in column (5) of Table 4.

Sampling at service reservoirs

12. Scottish Water must take, or cause to be taken, from each of its service reservoirs in each week in which the service reservoir is in use, one sample for analysis—

- (a) for determining the concentration of residual disinfectant;
- (b) for testing for compliance with the prescribed concentration and value for—
 - (i) coliform bacteria (item 3) in Table A; and
 - (ii) *Escherichia coli* (item 4) in Table A; and
- (c) for determining whether the prescribed concentration or value for colony count (item 5) in Table C (in so far as the point of monitoring is a service reservoir) is complied with.

Sampling: water supplied by tanker

13.—(1) Where the distribution of water in any part of a water supply zone is by tanker and is (or is likely to be) an intermittent short-term supply, samples of water from each tanker from which the water is distributed must be taken—

- (a) 48 hours after the commencement of the distribution from that tanker; and
- (b) every 48 hours thereafter until the distribution is discontinued.

(2) The first sample taken in relation to each distribution must be analysed for compliance with—

- (a) *Escherichia coli* (item 2) in Table A;
- (b) conductivity (item 7) in Table C; and
- (c) hydrogen ion (item 8) in Table C.

(3) The second and any subsequent samples must be analysed for compliance with every parameter in Table A, Table B and Table C.

Sampling: new sources

14.—(1) This regulation applies in relation to—

- (a) any source of water which has not been used for the supply of water by Scottish Water at any time during the period of 6 months preceding 1st January 2015; and
- (b) any source of water which has been so used, but not so used during the period of 6 months preceding the date on which Scottish Water proposes to supply water from it.

(2) Scottish Water 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—

- (i) whether water can be supplied from that source without contravening section 76A(1) of the 1980 Act (duties of water authorities with respect to water quality); and
- (ii) the treatment necessary to ensure that section 76A(1) of the 1980 Act is complied with in relation to the supply of that water.

(3) Samples must be taken—

- (a) in the case of a source of water mentioned in paragraph (1)(a), in respect of—
 - (i) the parameters in Table A, Table B and Table C; and
 - (ii) any other micro-organism, substance or parasite which may be present in, or any property of, the water which Scottish Water considers has the potential to cause a supply of water (from that source) to contravene section 76A(1) of the 1980 Act; and
- (b) in the case of a source mentioned in paragraph (1)(b), in respect of—
 - (i) enterococci (item 1) in Table A;
 - (ii) *Escherichia coli* (item 2 and item 4) in Table A;
 - (iii) coliform bacteria (item 3) in Table A;
 - (iv) conductivity (item 7) in Table C;
 - (v) hydrogen ion (item 8) in Table C;
 - (vi) turbidity (item 13) in Table C; and
 - (vii) any other parameter in Table B or Table C in relation to which Scottish Water considers that the concentration or value of that parameter 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, Scottish Water must not supply water for human consumption purposes from a source mentioned in paragraph (1)(a) until a period of one month has elapsed since the day on which Scottish Water complied with regulation 31(1) (as read with regulation 30) with respect to the source.

(5) The conditions are that Scottish Water—

- (a) must supply water from the source as a matter of urgency in order to prevent an unexpected interruption in a piped supply of water to consumers; and
- (b) before the supply is made, has carried out a risk assessment under regulation 30 specifically with respect to the source.

(6) For the purposes of paragraph (4) (in so far as it requires compliance with regulation 31(1)) and paragraph (5)(b), regulation 30 applies in relation to each supply of water mentioned in those paragraphs as if “treatment works” includes the source from which the untreated water is supplied.

Collection and analysis of samples

15.—(1) Scottish Water must ensure, so far as is reasonably practicable, that in taking, handling, transporting, storing and analysing any sample required to be taken for the purposes of this Part, 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 or specification for the measurement or observation for 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; and
- (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 either the laboratory or Scottish Water; and
 - (ii) approved by the Scottish Ministers for that purpose.

(3) For the purposes of paragraph (2)(e), “laboratory at which samples are analysed” includes a person who undertakes the analysis of samples for this Part, whether at the time and place where the samples are taken or otherwise.

(4) Scottish Water must maintain such records as are sufficient to enable it to establish, in relation to each sample taken for the purposes of 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 a sample contains a parameter in Table A, Table B or Table C at a concentration or value which contravenes the corresponding prescribed concentration or value—

- (a) the method of analysis specified in column (3) of Table M1 must be used for determining compliance with the parameter specified in relation to that method in column (2) of that table;
- (b) the method of analysis used for determining compliance with a parameter specified in column (2) of Table M2 must be capable, at the time of use—
 - (i) of measuring concentrations and values equal to the prescribed concentration or value with the trueness and precision specified in relation to that parameter in columns (3) and (4), respectively, of that table; and
 - (ii) of detecting the parameter at the limit of detection specified in relation to that parameter in column (5) of that table;
- (c) the methods of analysis used for—
 - (i) odour (item 9) in Table C; and
 - (ii) taste (item 11) in Table C,must be capable, at the time of use, of measuring values in relation to the prescribed concentration or value with a precision of 1 dilution number at 25°C; and
- (d) the method of analysis used for determining compliance with hydrogen ion (item 8) in Table C must be capable, at the time of use, of measuring concentrations equal to the prescribed concentration or value with a trueness of 0.2 pH unit and a precision of 0.2 pH unit.

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

“limit of detection” is to be calculated as—

- (a) 3 times the relative within batch standard deviation of a natural sample containing a low concentration of the parameter; or
 - (b) 5 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 result 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 Scottish Ministers may, on the application of any person, authorise, by notice given to Scottish Water, a method of analysis other than that mentioned in paragraph (5)(a) (“the prescribed method”).
- (8) An application for the purpose of paragraph (7) must be made in writing (or in electronic form acceptable to the Scottish Ministers) 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 Scottish 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 Scottish Ministers think fit.
- (11) The Scottish Ministers may, by notice given to Scottish Water, revoke an authorisation under paragraph (7) but no such notice is to be given later than 3 months before the date on which the revocation is stated to take effect.

PART 5

DRINKING WATER PROTECTED AREAS

Drinking water abstraction points: monitoring sites

- 16.**—(1) Scottish Water must identify every point from which it abstracts water for supply for human consumption purposes.
- (2) At every abstraction point, Scottish Water must—
- (a) take, or cause to be taken, such samples; and
 - (b) analyse, or cause to be analysed, those samples for such properties, organisms and substances,
- as it considers necessary to comply with regulations 29 to 31.
- (3) In relation to any abstraction point, the Scottish Ministers may, by notice given to Scottish Water, require it—
- (a) to take, or cause to be taken, such numbers of samples of water per year as may be specified in the notice; and
 - (b) to analyse, or cause to be analysed, those samples for such concentrations or values of such properties, organisms and substances as may be specified in the notice and at such frequencies as may be specified in the notice.
- (4) The Scottish Ministers may, by notice given to Scottish Water, revoke or amend a notice given 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 from 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 the Scottish Ministers may, by notice given to Scottish Water, specify.
- (6) For the purposes of—
- (a) paragraphs (2) and (3), “abstraction point” means an abstraction point identified under paragraph (1); and
 - (b) paragraph (5), “body of surface water” has the meaning given in section 28 (interpretation of Part 1) of the Water Environment and Water Services (Scotland) Act 2003(14).

PART 6

INVESTIGATION AND REMEDIAL ACTION

Scottish Water to investigate immediately any failure or likely failure

17.—(1) Where Scottish Water has reason to believe that water supplied by it for human consumption purposes has failed, is failing, or is likely to fail to—

- (a) satisfy a requirement of regulation 4(2); or
- (b) meet the prescribed concentration or value for a parameter in Table C,

it must immediately investigate (and take action) to establish the matters in paragraph (2).

- (2) The matters to be established are—
- (a) whether the water has failed, is failing or is likely to fail to—
 - (i) satisfy a requirement of regulation 4(2); or
 - (ii) meet the prescribed concentration or value for a parameter in Table C; and
 - (b) for any such failure or apprehended failure (“the failure”)—
 - (i) the parameter or other element, organism or substance to which the failure relates;
 - (ii) the cause and extent of the failure;
 - (iii) whether the failure is due to a domestic distribution system in premises where water is supplied to the public, or to the maintenance of that system;
 - (iv) whether the failure is due to a private domestic distribution system, or to the maintenance of that system; and
 - (v) whether the failure constitutes a potential danger to human health.
- (3) Where Scottish Water has—
- (a) investigated a failure or apprehended failure for the purposes of paragraph (1); and

(b) that investigation establishes that the failure is due to a domestic distribution system in premises where water is supplied to the public, or to the maintenance of that system, it may recover the expenses reasonably incurred by it (in carrying out that investigation) from the person who owns or is otherwise responsible for that domestic distribution system.

Scottish Water to notify immediately any potential danger to human health

18.—(1) Where Scottish Water establishes under regulation 17(1) that the failure in question constitutes a potential danger to human health, it must, by notice, immediately notify this to—

- (a) the Drinking Water Quality Regulator for Scotland;
 - (b) the Scottish Ministers;
 - (c) each local authority for the area in which the potential danger occurs; and
 - (d) those of its consumers who are likely to be affected by the failure.
- (2) The notice required by paragraph (1)(d) must inform the consumers—
- (a) of the nature of the failure;
 - (b) that the failure constitutes a potential danger to human health;
 - (c) of any remedial action taken, or to be taken, by Scottish Water; and
 - (d) of any action that Scottish Water considers is necessary or desirable for the consumer to take to protect human health.

Scottish Water to report on its investigation etc.

19.—(1) On completion of the investigation mentioned in regulation 17(1), Scottish Water must, as soon as possible, report the findings of the investigation to—

- (a) the Drinking Water Quality Regulator for Scotland;
 - (b) the Scottish Ministers; and
 - (c) where the failure in question is due to a domestic distribution system (or to the maintenance of that system) in premises where water is supplied to the public, the local authority for the area in which the premises is located.
- (2) The report must specify—
- (a) the matters in regulation 17(2)(a) and (b);
 - (b) whether the failure has ceased and, if so, whether it is likely to recur;
 - (c) any action which Scottish Water considers must be taken—
 - (i) to restore, as soon as possible, the quality of the water in question so that it satisfies the requirements of regulation 4(2);
 - (ii) to protect human health until the quality of the water is restored; and
 - (iii) to minimise the risk of the water failing to satisfy any such requirement; and
 - (d) any such action taken, or to be taken, by Scottish Water.

(3) Where the report specifies that the failure is due to a domestic distribution system (or to the maintenance of that system) in premises where water is supplied to the public, Scottish Water must as soon as possible inform such persons as the Drinking Water Quality Regulator for Scotland or the Scottish Ministers may, by notice given to Scottish Water, specify—

- (a) of the cause and extent of the failure;
- (b) whether the failure constitutes a potential danger to human health;
- (c) of any remedial action taken, or to be taken, by Scottish Water; and

- (d) of any action that Scottish Water considers is necessary or desirable for those persons to take to protect human health.

Scottish Water to restore water quality

20.—(1) Subject to paragraphs (4) and (5), where an investigation under regulation 17(1) establishes that the failure in question is on-going, Scottish Water must as soon as possible—

- (a) take such remedial action as is necessary to restore the quality of the water (to which the failure relates) so that it—
 - (i) satisfies the requirements of regulation 4(2)(b) and (c); and
 - (ii) meets the prescribed concentration or value for a parameter in Table C; and
- (b) where the water fails to satisfy a requirement of regulation 4(2) in relation to—
 - (i) copper (item 10) in Table B; or
 - (ii) lead (item 15) in Table B,

take action to modify or replace such of Scottish Water’s pipes and 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 copper or lead in those pipes contributed to the failure).

(2) Except where it considers that the failure in question is trivial, Scottish Water must inform (in so far as it has not already done so) those of its consumers who are likely to be affected by the failure of any remedial action taken under paragraph (1)(a).

(3) For the purposes of securing compliance with paragraph (1)(a), the Drinking Water Quality Regulator for Scotland and the Scottish Ministers must, in the exercise of their enforcement functions, give priority to enforcement action having regard, among other things, to—

- (a) the extent to which the prescribed concentration or value for a parameter (in Table A, Table B and Table C) has not been met; and
- (b) the potential danger to human health.

(4) Where the investigation establishes that the failure in question is due to a domestic distribution system in premises where water is supplied to the public (or to the maintenance of that system), paragraph (1)(a) does not apply in so far as a local authority must, under section 76FB of the 1980 Act(15), require the person who owns or is otherwise responsible for that system to take any such remedial action as is required by that paragraph.

(5) Where the investigation establishes that the failure in question is due to a private domestic distribution system (or to the maintenance of that system) and there is a risk that the water in question is failing or will fail to satisfy a requirement of regulation 4(2)(b) or (c) or meet the prescribed concentration or value for a parameter in Table C, Scottish Water must ensure that—

- (a) appropriate measures are taken to reduce or eliminate that risk (such as advising the owner and any occupiers of the premises served by the private domestic distribution system in question of any possible remedial action that they could take); and/or
- (b) other measures (such as appropriate treatment techniques) are taken to change the nature or properties of the water before it is supplied so as to reduce or eliminate that risk.

Scottish Water to protect human health

21.—(1) Subject to paragraph (3), where an investigation under regulation 17(1) establishes that the failure in question is on-going and constitutes a potential danger to human health, Scottish Water

(15) 1980 c.45; section 76FB was inserted by S.S.I. 2010/95 and is amended by regulation 48 of these Regulations.

must take such action as is necessary to protect human health from that danger (such as isolating anything that appears to be affecting, or may affect, the quality of the water).

(2) Scottish Water must decide what action should be taken to comply with paragraph (1), bearing in mind 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.

(3) Where the investigation establishes that the failure is due to a domestic distribution system in premises where water is supplied to the public (or to the maintenance of that system), paragraph (1) does not apply in so far as a local authority must, under section 76FB of the 1980 Act, require the person who owns or is otherwise responsible for that system to take any such action as is required by that paragraph.

(4) Scottish Water must inform (in so far as it has not already done so) those of its consumers who are likely to be affected by the failure of any action taken under paragraph (1).

Powers to require further action by Scottish Water

22.—(1) Where—

- (a) an investigation under regulation 17(1) establishes that the failure in question is due to a failure to satisfy the prescribed concentration or value for a parameter in Table B; and
- (b) the Drinking Water Quality Regulator for Scotland considers that the failure in respect of that parameter is not trivial and is likely to recur,

the Regulator may, by notice given to Scottish Water, require it to apply for a departure in accordance with regulation 24(1).

(2) Where the Drinking Water Quality Regulator for Scotland considers that a failure to which a report under regulation 19(1) relates is not trivial, it may by notice given to Scottish Water require Scottish Water to take such action as the Regulator may specify in the notice to—

- (a) restore, as soon as possible, the quality of the water in question so that it satisfies the requirements of regulation 4(2);
- (b) protect human health until the quality of the water is restored; and
- (c) minimise the risk of the water failing to satisfy any such requirement.

(3) Scottish Water must comply with a notice given to it under paragraph (1) or (2).

(4) The exercise by the Drinking Water Quality Regulator for Scotland of the power conferred by paragraph (2) does not preclude the exercise by the Regulator, in relation to the same circumstances, of powers conferred by Part 2 of the Water Industry (Scotland) Act 2002(16).

Power to direct local authorities in relation to domestic distribution systems

23.—(1) Where Scottish Water—

- (a) investigates a failure or apprehended failure for the purposes of regulation 17(1); and
- (b) that investigation establishes that the failure is due to a domestic distribution system in premises where water is supplied to the public (or to the maintenance of that system),

the Scottish Ministers may give a direction to a local authority for the area in which the premises is located in relation to the exercise of its functions under sections 76FB and 76FC of the 1980 Act.

(2) A direction under paragraph (1) may, in particular, specify—

- (a) any advice which the local authority must require to be given to consumers in relation to the failure by notice under section 76FB(3)(d) of that Act;

- (b) any steps which the local authority must require to be taken under section 76FB(3)(b) and (e) of that Act; and
 - (c) the period which the local authority must specify under section 76FB(3)(c) of that Act.
- (3) A local authority must comply with a direction given under paragraph (1) above.

PART 7

AUTHORISATION OF TEMPORARY DEPARTURES

Authorisation of temporary supply of water that is not wholesome

24.—(1) Subject to paragraph (2), the Scottish Ministers may, on the application of Scottish Water in writing (or in electronic form) and in accordance with regulation 25, authorise a departure from a requirement of Part 3 in so far as the requirement relates to both—

- (a) a parameter in Table B; and
- (b) a supply of water by Scottish Water within a water supply zone.

(2) The Scottish 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 human consumption 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) Scottish Water 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 head (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 head (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 in order to secure that the supply satisfies the requirements of Part 3, 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 Scottish Ministers.
- (4) At the same time as it makes an application for an authorisation under paragraph (1), Scottish Water must give to—
 - (a) every appropriate health board;
 - (b) every appropriate local authority;
 - (c) the Scottish Association of Citizens Advice Bureaux⁽¹⁷⁾; and
 - (d) the Water Industry Commissioner for Scotland,
 a copy of the application and of the statement, scheme and summary referred to in paragraph (3).

(5) A body to whom documents have been given in accordance with paragraph (4) may make representations to the Scottish 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.

(6) In paragraph (4)—

“appropriate health board” means a health board whose area contains any part of the water supply zone to which the authorisation being sought would relate; and

“appropriate local authority” means a local authority whose area contains any part of the water supply zone to which the authorisation being sought would relate.

Authorisations: terms and conditions

25.—(1) Subject to paragraph (2), a departure authorised under regulation 24(1) must be for as short a period as the Scottish Ministers consider is reasonably required for securing a supply of water for human consumption purposes that satisfies the requirements of Part 3 (“the departure period”).

(2) A departure period must not exceed 3 years.

(3) Subject to paragraph (4), an authorisation under regulation 24(1) must—

(a) 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 head (iii) applies, 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;

⁽¹⁷⁾ The Scottish Association of Citizens Advice Bureaux is a company limited by guarantee, formed and registered under the Companies Act 2006 with the company number SC089892, and a registered charity with the number SC016637.

- (v) in respect of each parameter to which head (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;
- (b) 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 24(3)(b));
- (c) require the carrying out of the steps which the Scottish Ministers consider are reasonably required in order to secure that the supply satisfies the requirements of Part 3 (whether or not the steps are those proposed in the summary submitted in accordance with regulation 24(3)(c));
- (d) 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 the Scottish Ministers the result of the review; and
- (e) 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 Scottish Ministers consider that—
- (a) the failure to comply with a requirement of Part 3 as respects any parameter is trivial; and
 - (b) the parameter in question is likely to comply with the prescribed concentration or value for that parameter within the period of 30 days beginning with the day on which the parameter failed to comply with that prescribed concentration or value,
- the particulars to be specified in the authorisation are those required by paragraph (3)(a)(iii) and (ix), and paragraph (3)(b) to (e) does not apply.
- (5) Where it appears to the Scottish Ministers that a supply of water that satisfies the requirements of Part 3 cannot be restored by the end of the departure period authorised under regulation 24(1) (“first departure”), they may authorise a second departure.
- (6) Paragraphs (1) to (4) and (9) apply to a second departure as they apply to a first departure.
- (7) Where it appears to the Scottish Ministers that a supply of water that satisfies the requirements of Part 3 cannot be restored by the end of the second departure period, they may request the European Commission to grant a third departure (for a period not exceeding 3 years) in accordance with Article 9(2) of the Directive.
- (8) Where the European Commission grants a third departure (“derogation”), the Scottish Ministers must send a copy of the derogation to—
- (a) the Drinking Water Quality Regulator for Scotland; and

(b) Scottish Water.

(9) Paragraph (4) does not apply if the failure to comply with a prescribed concentration or value has occurred on more than 30 days on aggregate during the previous 12 months.

Authorisations: other limitations

26. An authorisation under regulation 24(1) or 25(5), or a request under regulation 25(7), may be limited to water supplied—

- (a) from particular sources or classes of source; and
- (b) to particular water supply zones or to zones of particular descriptions.

Authorisations: publicity

27. As soon as reasonably practicable after a departure has been authorised under regulation 24(1) or 25(5) or granted in accordance with Article 9(2) of the Directive, Scottish Water must—

- (a) inform those of its consumers who are likely to be affected by the departure (or the conditions governing it)—
 - (i) except in a case to which regulation 25(4) applies, of the departure and the conditions governing it (including the matters specified in regulation 25(3)(a)(ii), (iii), (viii) and (ix)); or
 - (ii) in a case to which regulation 25(4) applies, and if Scottish Ministers so require, of the departure and the conditions governing it (including the matters specified in regulation 25(3)(a)(ii), (iii) and (ix)); and
- (b) give such other public notice of the departure (and the conditions governing it) as the Scottish Ministers may, by notice given to Scottish Water, reasonably require.

Authorisations: revocation and modification

28.—(1) Subject to paragraphs (2) and (3), the Scottish Ministers may at any time modify or revoke an authorisation given (or having effect as if so given) under regulation 24(1) or 25(5), and regulations 25 and 26 apply as respects a modification as they apply as respects that authorisation.

(2) Except where paragraph (4) applies, the Scottish Ministers must not revoke or modify an authorisation under regulation 24(1) or 25(5) without giving at least 6 months' notice in writing (or in electronic form) of their intention to do so to—

- (a) the Drinking Water Quality Regulator for Scotland;
- (b) every appropriate health board;
- (c) every appropriate local authority;
- (d) the Scottish Association of Citizens Advice Bureaux;
- (e) Scottish Water; and
- (f) the Water Industry Commissioner for Scotland,

but they may revoke or modify any such authorisation without the need for this prior notice if it appears to the Scottish Ministers that immediate revocation or modification is required in the interests of public health and provided notice is given thereafter of the revocation or modification.

(3) Scottish Water, on whose application a departure has been authorised under this Part, must notify the Scottish Ministers as soon as the circumstances which gave rise to the application cease to exist.

(4) The Scottish Ministers must on being notified under paragraph (3)—

- (a) by notice given to Scottish Water revoke the authorisation; and
 - (b) send a copy of the notice to the Drinking Water Quality Regulator for Scotland.
- (5) In paragraph (2)—
- “appropriate health board” means a health board whose area contains any part of the water supply zone to which the authorisation relates; and
 - “appropriate local authority” means a local authority whose area contains any part of the water supply zone to which the authorisation relates.

PART 8

TREATMENT, RISK ASSESSMENT AND CONTAMINATION FROM PIPES

Treatment of raw water

29.—(1) Subject to paragraph (3), before providing a supply of water for human consumption purposes, Scottish Water must ensure that the water is—

- (a) subjected to sufficient preliminary treatment;
- (b) disinfected; and
- (c) subjected to an adequate treatment process.

(2) Scottish Water must—

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

(3) Where the Scottish Ministers confirm, by notice given to Scottish Water, that they are, in respect of a supply of water specified in the notice (“the specified supply”), satisfied that—

- (a) Scottish Water was, or is (for such period as may be specified), unable to comply (in part or otherwise) with paragraph (1) without causing an interruption of the specified supply;
- (b) bearing in mind the risks to human health which would be caused by any such interruption, to protect human health, the specified supply should not be interrupted; and
- (c) other action (which would not interrupt the specified supply) will be, or has been, taken by Scottish Water to protect human health until it is able to comply with paragraph (1),

Scottish Water may provide the specified supply without complying with paragraph (1).

(4) Where, by virtue of paragraph (3), Scottish Water provides a supply of water for human consumption purposes which does not comply with paragraph (1) it must, notwithstanding paragraph (3), comply with the other requirements of these Regulations (including taking such action as is necessary to ensure that the supply satisfies the requirements of regulation 4(2)).

(5) Scottish Water must, before (or, in so far as it is not reasonably practicable to do so, promptly after) providing a supply of water for human consumption purposes which does not comply with paragraph (1), inform (in so far as it has not already done so) those of its consumers to whom it supplies the water—

- (a) that the water has not been subjected to sufficient preliminary treatment, disinfected or, as the case may be, subjected to an adequate treatment process;
- (b) of other action that has been taken, or will be taken, to ensure that the supply satisfies the requirements of regulation 4(2); and

- (c) of the action (if any) that Scottish Water considers is necessary or desirable for the consumer to take to protect human health.
- (6) Paragraph (1) does not require Scottish Water to disinfect such groundwater as the Scottish Ministers may, by notice given to Scottish Water, specify.
- (7) For the purposes of this regulation—
 - (a) “adequate treatment process” means a continuously operated process of blending or purification treatment which removes, reduces or renders harmless any micro-organism, substance or parasite in, or property of, water, so that the water does not constitute a potential danger to human health;
 - (b) “sufficient preliminary treatment” means the treatment necessary (if any) to—
 - (i) remove or reduce the value or concentration of any property or substance which would interfere with disinfection; and
 - (ii) reduce turbidity to less than one Nephelometric Turbidity Unit; and
 - (c) water is supplied for human consumption purposes when it leaves a treatment works.

Risk assessment of each treatment works and its connected supply system

- 30.**—(1) This regulation applies to each treatment works and its connected supply system from which water is supplied, or is to be supplied, by Scottish Water for human consumption purposes.
- (2) Scottish Water must assess each treatment works and its connected supply system (“the combined system”) so as to establish whether or not there is a significant risk of supplying unwholesome water from the combined system (or any part of it).
- (3) Each risk assessment must be recorded in writing (or in electronic form) and include—
- (a) a description of the methods used to prepare it;
 - (b) where the assessment establishes that there is no significant risk of supplying unwholesome water from the combined system (or any part of it), a statement confirming this; and
 - (c) where it establishes that measures have been taken to remove a significant risk of supplying unwholesome water from the combined system (or any part of it)—
 - (i) monitoring data which verifies this; and
 - (ii) details of those measures.
- (4) Subject to paragraph (5), each risk assessment must be completed (and recorded) before 1st October 2015.
- (5) If the combined system (or part of it) is not in use on 1st January 2015, the risk assessment must be completed (and recorded) before the combined system or, as the case may be, that part of it is used by Scottish Water to supply water for human consumption purposes.
- (6) Scottish Water must keep each risk assessment under review.
- (7) The Drinking Water Quality Regulator for Scotland may, by notice given to Scottish Water, require it to complete (and record) a risk assessment or, as the case may be, a review by a date specified in the notice.
- (8) Where Scottish Water becomes aware of any factors which make it likely that a risk assessment or a review will establish that there is a significant risk of supplying unwholesome water, it must inform the Drinking Water Quality Regulator for Scotland specifying the relevant factors and the measures it is taking or intends to take to mitigate the risk.

Procedure following risk assessment and prohibition of supply

31.—(1) As soon as reasonably practicable after Scottish Water has carried out a risk assessment, or a review of a risk assessment, under regulation 30, it must submit to the Scottish Ministers a copy of the risk assessment or, as the case may be, the review.

(2) Where the assessment or review establishes that there is a significant risk of supplying unwholesome water, Scottish Water must, as soon as reasonably practicable, prepare and submit to the Scottish Ministers a report that—

- (a) contains a full explanation including details of every property, organism or substance that has been identified as contributing to the risk; and
- (b) specifies the measures to mitigate the risk that Scottish Water—
 - (i) has made operational as at the date of the report; and
 - (ii) intends to make operational.

(3) Where the Scottish Ministers have received a report which states that there is or has been a significant risk of supplying unwholesome water, they may, by notice given to Scottish Water, require it—

- (a) to maintain such specified measures for such period of time as they consider appropriate to mitigate the risk;
- (b) to review, revise or make operational such specified measures by such date as they 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 human consumption purposes from specified treatment works or supply systems, or not to so supply water unless specified conditions are satisfied; and
- (e) to give the Scottish Ministers such information as they may require to monitor progress towards mitigation of that risk.

(4) In paragraph (3), “specified” means specified in the notice given under that paragraph.

(5) The Scottish Ministers may, by notice given to Scottish Water, revoke or amend a notice given under paragraph (3).

Copper and lead contamination from pipes

32.—(1) Where there is a risk (“the prescribed risk”) that water supplied by Scottish Water would, for the reason mentioned in paragraph (2), after leaving its 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,

Scottish Water must, subject to paragraph (3), treat the water in such a way as it considers will 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 76A(3)(a) of the 1980 Act, or its associated fittings.

(3) Paragraph (1) does not require Scottish Water to treat water—

- (a) if the treatment is unlikely to achieve a significant reduction in the concentration of copper or lead;
- (b) supplied by it to any part of a water supply zone which the Drinking Water Quality Regulator for Scotland for the time being confirms, by notice given to Scottish Water, is in the Regulator’s opinion an insignificant part of that zone; or

- (c) if treatment is not reasonably practicable.
 - (4) Where Scottish Water—
 - (a) has reason to believe that water supplied by it for human consumption purposes from a pipe to which paragraph (5) applies contains, at the consumer’s tap, a concentration of lead which exceeds 10 µg/l; and
 - (b) has received from the owner of premises to which water is so supplied notice in writing (or in electronic form)—
 - (i) of the owner’s intention to replace so much of the pipe as belongs to him; and
 - (ii) of his desire that Scottish Water replaces the remainder of the pipe,
- Scottish Water 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 in part to Scottish Water and, as to the remainder, to the owner of the premises to which the pipe supplies water for human consumption purposes.

PART 9

CONTROLS ON SUBSTANCES, PRODUCTS AND PROCESSES

Application and introduction of substances and products

33.—(1) Subject to paragraph (2), Scottish Water must not apply any substance or product to, or introduce any substance or product into, water which is to be supplied by it for human consumption purposes unless one of the requirements of paragraph (3) 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 Regulation (EU) No 305/2011 of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products and repealing Council [Directive 89/106/EEC](#)(**18**); or
 - (b) conforms to an appropriate British Standard or some other appropriate standard of an EEA state(**19**) or Turkey(**20**) which provides an equivalent level of protection and performance,
- may be applied or introduced, notwithstanding that none of the requirements of paragraph (3) is satisfied; but only if its application or introduction complies with—
- (i) such conditions of use restricting the dosing concentration as for the time being apply in relation to that substance or product pursuant to a direction of the Scottish Ministers given to Scottish Water (in exercise of powers under section 56(3) of the Water Industry (Scotland) Act 2002(**21**)); 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

(18) OJ L 88, 4.4.2011, p.5.

(19) “EEA state” has the meaning given in Schedule 1 to the Interpretation Act 1978 (c.30). This definition was inserted by the Legislative and Regulatory Reform Act 2006 (c.51), section 26(1).

(20) Decision No 1/95 of the EC-Turkey Association Council of 22nd December 1995 on implementing the final phase of the Customs Union (OJ L 35, 13.2.96, p.1) provide for the removal of measures having an effect equivalent to quantitative restrictions between the European Union and Turkey. See, in particular, Articles 5 to 7 (as read with Article 66).

(21) 2002 asp 3.

field of technical standards and regulations and of rules on Information Society services⁽²²⁾ 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⁽²³⁾ has also been communicated to the Commission.

(3) The requirements of this paragraph are—

- (a) that the Scottish 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 Scottish 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; or
- (c) that the Scottish Ministers are satisfied that the substance or product is to be applied or introduced solely for the purposes of testing or research, and Scottish Water has given to the Scottish Ministers not less than 3 months' notice of their intention to apply or introduce the substance or product solely for those purposes.

(4) An application for such an approval as is mentioned in paragraph (3)(a) may be made by any person ("the applicant").

(5) If the Scottish Ministers decide to issue an approval under paragraph (3)(a), they may include in the approval such conditions as they consider appropriate and, subject to paragraph (9), may at any time revoke or vary any approval they have previously given.

(6) Where a substance or a product is applied or introduced in any case in which the requirement mentioned in paragraph (3)(c) is satisfied, its application or introduction must be discontinued within 12 months of the date on which it was first applied or introduced or, if the Scottish Ministers so direct (in exercise of powers under section 56(3) of the Water Industry (Scotland) Act 2002), within such other period (whether longer or shorter) as may be specified in the direction.

(7) The Scottish Ministers may, by notice given to Scottish Water, prohibit Scottish Water from applying to, or introducing into, water intended to be supplied by it for human consumption purposes any substance or product which it would otherwise be authorised to apply or introduce by virtue of—

- (a) paragraph (1) as read with sub-paragraph (b) or (c) of paragraph (3); or
- (b) paragraph (2).

(8) A prohibition under paragraph (7) may be without limitation as to time or for such period as is specified in the notice.

(9) The Scottish Ministers may—

- (a) revoke any approval given for the purposes of paragraph (3)(a) by notice given to—
 - (i) the applicant for that approval;
 - (ii) the Drinking Water Quality Regulator for Scotland; and
 - (iii) Scottish Water (where it is not the applicant);
- (b) modify any such approval by including conditions or varying existing conditions by notice given to the persons referred to in sub-paragraph (a); and
- (c) give notice in accordance with paragraph (7),

(22) OJ L 204, 21.7.1998, p.37, as amended by [Directive 98/48/EC](#) (OJ L 217, 5.8.1998, p.18), Council [Directive 2006/96/EC](#) (OJ L 363, 20.12.2006, p.81) and Regulation (EU) No 1025/2012 (OJ L 316, 14.11.2012, p.12).

(23) By virtue of section 5 and section 23(1) of, and Schedule 1 to, the Interpretation Act 1978 (c.30), "member" in the expression "member State" refers to membership of the European Union.

but, unless they are satisfied that it is necessary to do so in the interests of public health without notice, they must not do any of those things without giving such persons as the Scottish Ministers consider are likely to be affected by the revocation or modification of the approval, or by the issue of the notice, at least 6 months' notice in writing (or in electronic form) of their intention.

(10) Where the Scottish Ministers give notice under paragraph (7) or (9)(a) or (b), they must also give notice as soon as possible to such persons as the Scottish Ministers consider are likely to be affected (whether directly or indirectly) by the giving of that notice.

(11) At least once in each year, the Scottish Ministers must publish up-to-date lists of—

- (a) each application or introduction of a substance and product which is for the time being approved by them pursuant to paragraph (3)(a) (taking account of any modifications), together with details of any conditions which for the time being attach to that approval; and
- (b) each application or introduction of a substance and product which is for the time being prohibited by virtue of paragraph (7) (notwithstanding paragraph (2), (3)(b) or (3)(c)).

(12) The Scottish Ministers may—

- (a) by notice given to the applicant for an approval (as is mentioned in paragraph (3)(a)), require the applicant to pay them a charge which reflects the administrative expenses incurred or likely to be incurred by the Scottish Ministers, or by others on their behalf, 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 them to be appropriate.

Use of processes

34.—(1) The Scottish Ministers may by notice given to Scottish Water—

- (a) require it to make an application to them for approval of the use of any process; and
- (b) 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 human consumption purposes.

(2) The Scottish Ministers may by notice given to Scottish Water—

- (a) refuse or approve the application; and
- (b) if they approve the application, impose such conditions as they think fit.

(3) The Scottish Ministers may by notice given to Scottish Water—

- (a) revoke any such approval; or
- (b) modify or revoke any condition imposed.

(4) The Scottish Ministers must give Scottish Water at least 6 months' notice in writing (or in electronic form) of their intention to—

- (a) revoke any such approval;
- (b) modify a condition; or
- (c) prohibit Scottish Water from using a process.

(5) Paragraph (4) does not apply in so far as the Scottish Ministers consider that the immediate revocation, modification or prohibition is necessary in the interests of public health.

(6) At least once in each year, the Scottish Ministers must publish up-to-date lists of—

- (a) each use of a process which is for the time being approved by them pursuant to paragraphs (1)(a) and (2), together with details of any conditions which for the time being attach to that approval; and

- (b) each use of any such process which is (despite its approval under paragraphs (1)(a) and (2)) for the time being prohibited from being used in connection with the supply by Scottish Water of water for human consumption purposes by virtue of a notice given under paragraph (1)(b), together with details of any period specified in that notice.

PART 10

OFFENCES: PARTS 8 AND 9

Offences

35.—(1) It is an offence for Scottish Water to contravene—

- (a) regulation 29(1);
- (b) a requirement of a notice given to it under regulation 31(3)(d);
- (c) regulation 33(1);
- (d) a requirement of a notice given to it under regulation 33(7);
- (e) a requirement of a notice given to it under regulation 34(1)(b); or
- (f) a requirement of a notice given to it under regulation 34(2)(b).

(2) In any proceedings against Scottish Water for an offence under paragraph (1)(a) or (1)(b), it is a defence to show that Scottish Water took all reasonable steps and exercised all due diligence to avoid committing the offence.

(3) It is an offence for a person furnishing information or making an application (for approval) under regulation 33 or 34 to make a statement which that person knows to be false in a material particular, or to recklessly make a statement which is false in a material particular.

(4) A person **(24)** who commits an offence under paragraph (1) or (3) is liable—

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

Offences by bodies corporate

36.—(1) Where—

- (a) an offence under regulation 35 has been committed by a body corporate or a Scottish partnership or other unincorporated association; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect of the part of—
 - (i) a relevant individual; or
 - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual (as well as the body corporate, partnership or, as the case may be, other unincorporated association) commits the offence and is liable to be proceeded against and punished accordingly.

(2) In paragraph (1), “relevant individual” means—

- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body;
 - (ii) where the affairs of the body are managed by its members, the members;

(24) By virtue of section 5 and section 23(1) of, and Schedule 1 to, the Interpretation Act 1978 (c. 30), “person” includes a body of persons corporate (such as Scottish Water) and unincorporate (such as Scottish partnership or other association).

- (b) in relation to a Scottish partnership, a partner; and
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

PART 11

RECORDS AND INFORMATION

Maintenance of records

37.—(1) Scottish Water must prepare and maintain, for each water supply zone, 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 7 which applies to water supplied in the zone;
- (e) particulars of the action taken or required to be taken by it to comply with—
 - (i) any default order made pursuant to section 76E of the 1980 Act or Part 13;
 - (ii) any departure authorised under Part 7; and
 - (iii) any notice under regulation 22(2);
- (f) particulars of the result of any analysis of samples taken pursuant to—
 - (i) Part 4;
 - (ii) regulation 16; and
 - (iii) regulation 31;
- (g) a copy of each risk assessment, and any review, recorded under regulation 30; and
- (h) such other particulars as Scottish Water may determine.

(2) Scottish Water must make—

- (a) initial entries in the record in respect of the matters in paragraph (1)(a) to (d) and (e)(ii) within the period of two months beginning with 1st January 2015;
- (b) entries in respect of each order or notice required by paragraph (1)(e)(i) and (iii) within a period of 28 days beginning with the date of the order and notice respectively; and
- (c) entries relating to the results of the analysis of samples within a period of 28 days beginning with the day on which the result is first known to the authority.

(3) Without prejudice to paragraph (2), Scottish Water must at least once in each year review and bring up-to-date the record required to be kept by paragraph (1).

(4) Nothing in this regulation requires Scottish Water to retain a record of any information mentioned in paragraph (1) for a period of more than 15 years beginning with the date on which the information was first entered in the record.

Notification of health risk events

38.—(1) Except in so far as paragraph (2) applies, as soon as reasonably practicable after the occurrence of a health risk event, Scottish Water must notify the occurrence of the event to—

- (a) the Drinking Water Quality Regulator for Scotland;
- (b) each health board for the area in which the event occurs;
- (c) Health Protection Scotland;
- (d) each local authority for the area in which the event occurs; and
- (e) the Scottish Ministers.

(2) Paragraph (1) does not apply in so far as the occurrence of a health risk event has already been notified to any such person, body or office-holder by virtue of the provisions in Part 6.

(3) A local authority or a health board that has received a notification under paragraph (1) may require Scottish Water to provide that local authority or, as the case may be, that health board with such information relating to the event and its consequences as they may reasonably require.

(4) In paragraphs (1) and (2), “health risk event” means an event which, by reason of its effect or likely effect on the water supplied by Scottish Water, gives rise or is likely to give rise to a significant risk to the health of persons residing in the area of a local authority or health board.

Publication of information

39.—(1) Scottish Water must, not later than 31st March in each year, publish on its website for each water supply zone a report relating to the preceding year.

(2) The report must specify—

- (a) the number of samples taken from each water supply zone in the preceding year in respect of residual disinfectant and each parameter in Table A and Table B and—
 - (i) for each zone, the number and percentage of samples (of the total taken in the zone) which failed to comply with the corresponding prescribed concentration or value;
 - (ii) for each zone, the parameters (if any) which each sample failed to comply with; and
 - (iii) the number and percentage of the zones (in which those samples were taken) which failed to comply with the corresponding prescribed concentration or value; and
- (b) the number of samples taken from each water supply zone in the preceding year in respect of each parameter in Table C and—
 - (i) for each zone, the number and percentage of samples (of the total taken in the zone) which failed to comply with the corresponding prescribed concentration or value;
 - (ii) for each zone, the parameters (if any) which each sample failed to comply with; and
 - (iii) the number and percentage of the zones (in which those samples were taken) which failed to comply with the corresponding prescribed concentrations or values.

PART 12

SCOTTISH WATER: INCIDENTAL POWERS

Power to enter

40.—(1) Scottish Water may where necessary to comply with any duty or requirement imposed on it by virtue of Parts 4 to 9 (and without prejudice to any power otherwise exercisable by it)—

- (a) enter any premises to which it supplies water for the purposes of—
 - (i) assessing or monitoring the quality of the water; or
 - (ii) investigating or isolating anything that appears to be affecting, or may affect, the quality of the water; and

- (b) take any steps at the premises which are reasonably required for those purposes.
- (2) Paragraph (1) has effect whether the water or thing is located at the premises or elsewhere.
- (3) Except in an emergency, paragraph (1) authorises entry only if the occupier (if any) of the premises—
 - (a) has consented to the intended entry for those purposes; or
 - (b) has been given at least 24 hours' notice of the intended entry for those purposes.
- (4) Where Scottish Water exercises the powers conferred by paragraph (1) (“the powers”) in an emergency, the powers allow the use of reasonable force (if required).
- (5) In paragraph (1), the reference to affecting the quality of the water is to affecting its quality adversely (directly or indirectly).
- (6) In paragraphs (3) and (4), “an emergency” means a case in which it appears to Scottish Water that—
 - (a) water supplied by it to premises for human consumption purposes constitutes an imminent danger to human health; and
 - (b) it must exercise immediately the powers conferred by paragraph (1) in order to protect human health from that danger.

Entry warrants

- 41.**—(1) Scottish Water may apply to the sheriff for a warrant authorising it to—
- (a) enter particular premises for the purposes mentioned in regulation 40(1); and
 - (b) take any steps at the premises which are reasonably required for those purposes.
- (2) The sheriff may grant the warrant sought if satisfied—
- (a) that there are reasonable grounds for entering the premises for those purposes; and
 - (b) that—
 - (i) the first and second conditions are met; or
 - (ii) the third condition is met.
- (3) The first condition is that—
- (a) admission to the premises has been refused;
 - (b) the taking of steps at the premises has been obstructed; or
 - (c) such refusal or obstruction may reasonably be expected.
- (4) The second condition is that notice of the intention to seek a warrant has been given to the occupier of the premises.
- (5) The third condition is that the premises are unoccupied.
- (6) A warrant under paragraph (1)—
- (a) remains valid until the purposes mentioned in regulation 40(1) are fulfilled; and
 - (b) allows the use of reasonable force (if required).
- (7) Paragraph (1) has effect whether the water or thing is located at the premises or elsewhere.

Approved persons

- 42.**—(1) Paragraph (2) applies to the authority conferred on Scottish Water by—
- (a) regulation 40(1); or
 - (b) a warrant under regulation 41(1).

(2) The authority is exercisable on behalf of Scottish Water by any person approved (in writing) by Scottish Water for the purposes mentioned in regulation 40(1).

Taking steps

43.—(1) Paragraphs (2) to (6) apply in relation to the exercise of the authority mentioned in regulation 42(1)(a) or (b).

(2) An approved person must, if required by the occupier of the premises—

- (a) produce evidence of the approved person’s identity (and approval); and
- (b) explain the nature of the authority by (as the case may be)—
 - (i) reference to regulation 40(1); or
 - (ii) showing a copy of the warrant.

(3) An approved person may take onto the premises—

- (a) other persons acting under the approved person’s direction;
- (b) such equipment as is necessary in connection with the steps that may be taken there.

(4) The steps that may be taken by an approved person (or other persons acting under that person’s direction) at the premises include—

- (a) inspecting or measuring any water found there;
- (b) carrying out tests on or taking samples from any soil, water or other substance found there; and
- (c) installing or maintaining any measuring, testing or sampling equipment for use there.

(5) Except in an emergency, an approved person may enter the premises only at a reasonable time.

(6) If the premises are unoccupied (or the occupier is temporarily absent), an approved person must leave them as effectively secured against entry as they were when that person entered them.

(7) In paragraphs (2) to (6), “approved person” means person approved as mentioned in paragraph 42(2).

(8) In paragraph (5), “an emergency” has the same meaning as it has in regulation 40(6).

Obstruction offence

44.—(1) A person commits an offence if the person intentionally obstructs an approved person in the exercise—

- (a) in an emergency, of the authority mentioned in regulation 42(1)(a); or
- (b) of the authority mentioned in regulation 42(1)(b).

(2) In paragraph (1)—

- “an emergency” has the same meaning as it has in regulation 40(6); and
- “approved person” means person approved as mentioned in regulation 42(2).

(3) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Compensation

45. Section 10 (compensation for damage resulting from the exercise of powers) of the 1980 Act has effect in relation to the exercise by Scottish Water of the authority mentioned in regulation 42(1) (a) or (b) (read with regulation 43) as it applies to the exercise of its powers under that Act.

PART 13

SCOTTISH MINISTERS: ENFORCEMENT POWERS

Powers of the Scottish Ministers on default of Scottish Water

46.—(1) Any duty or requirement imposed on Scottish Water by Parts 4 to 11 in exercise of powers under section 76B of the 1980 Act is enforceable by the Scottish Ministers under section 76E (enforcement of regulations made under section 76B) of the 1980 Act whether or not a failure to carry out the duty or requirement constitutes an offence.

(2) Section 11 (power of the Scottish Ministers to make a default order) of the 1980 Act also has effect for the enforcement by the Scottish Ministers of any duty or requirement imposed (in whole or in part) on Scottish Water by Parts 4 to 11 of these Regulations in exercise of any other power⁽²⁵⁾ (and whether or not a failure to carry out the duty or requirement constitutes an offence) but with the modification that the Scottish Ministers may make an order under section 11(2) without having caused a local inquiry to be held into the matter.

PART 14

LOCAL AUTHORITY FUNCTIONS: PUBLIC WATER SUPPLIES

Local authority functions in relation to public water supplies

47.—(1) In performing its duty under section 76F(1) of the 1980 Act to keep informed about the wholesomeness and sufficiency of water supplies in its area, a local authority—

- (a) must make such arrangements with Scottish Water as will secure that the local authority is notified as mentioned in regulation 38(1); and
- (b) may, in relation to any supply by Scottish Water of water for domestic purposes or food production purposes to premises in the area of that local authority—
 - (i) take, or cause to be taken; and
 - (ii) analyse, or cause to be analysed,

by a person designated by the local authority in writing (or in electronic form), such samples of the water supplied to the premises as they may reasonably require pursuant to that duty.

(2) Regulation 15 applies to samples taken under paragraph (1) as it applies to samples taken for the purposes of Part 4, but with the following modifications—

- (a) in paragraphs (1) and (4), for “Scottish Water” substitute “A local authority”; and
- (b) in paragraph (2)(e), for “or Scottish Water” substitute “, Scottish Water or the local authority”.

⁽²⁵⁾ This applies to any such duty or requirement imposed (in whole or part) by virtue of sections 76A(3)(b), 76F(5) and (6), 76J, and 101(1) and (1A) of the Water (Scotland) Act 1980 (c.45), section 56(1) and (2) of the Finance Act 1973 (c.51) and section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 (c.68).

PART 15

CONSEQUENTIAL AMENDMENTS AND REVOCATIONS

Amendment of the Water (Scotland) Act 1980

- 48.** In the 1980 Act⁽²⁶⁾—
- (a) in section 76E—
 - (i) after subsection (2) insert—

“(2A) The reference in subsection (2) of section 11 to “such a failure on the part of Scottish Water” is to be construed as a reference to a failure by Scottish Water in any of the duties referred to in subsection (1) above.”;
 - (ii) after subsection (3) insert—

“(3A) Before making an order under subsection (2) of section 11, the Scottish Ministers must consult the Drinking Water Quality Regulator for Scotland.”; and
 - (iii) repeal subsection (4);
 - (b) in section 76FA(1)(c), repeal sub-paragraphs (i) and (ii);
 - (c) the title of that section becomes “Domestic distribution failures where water is supplied to the public by private supply”;
 - (d) for section 76FB(1)—
 - (i) the words from “have” to the end become paragraph (a); and
 - (ii) after that paragraph, insert—

“; or

 - (b) receive a report on the findings of an investigation in accordance with regulation 19(1)(c) of the Public Water Supplies (Scotland) Regulations 2014 ([SSI 2014/364](#)).”;
 - (e) in section 76FB(2), after “issue” insert “or, as the case may be, the failure or apprehended failure which is the subject of the investigation,”;
 - (f) in section 76FB(3)(a), after “issue” insert “or, as the case may be, the failure or apprehended failure”;
 - (g) in section 76FB(4) and (8), after “issue”, in each place it occurs, insert “or a relevant failure”;
 - (h) in section 76FB(9), for paragraphs (a) and (b) substitute—
 - “(a) Part 2 of Table B in Schedule 1 to the Public Water Supplies (Scotland) Regulations 2014 ([SSI 2014/364](#));
 - (b) Table C in Schedule 1 to those Regulations;”;
 - (i) after section 76FB(9) insert—

“(10) In subsections (4) and (8) “a relevant failure” means a failure or apprehended failure which is the subject of an investigation to which subsection (1)(b) applies.”; and
 - (j) in section 76L(1A) repeal “otherwise than on the premises”⁽²⁷⁾.

⁽²⁶⁾ 1980 c.45; sections 76E and 76L were inserted by section 168 of, and Schedule 22 to, the Water Act 1989 (c.15); sections 76FA and 76FB were inserted by [S.S.I. 2010/95](#).

⁽²⁷⁾ Section 76L was inserted by section 168 of, and Schedule 22 to, the Water Act 1989 (c.15) and paragraph (1A) of that section was inserted by section 56(6) of the Food Safety Act 1990 (c.16).

Amendment of the Building (Scotland) Act 2003

49. In the Building (Scotland) Act 2003(28), in paragraph 5(2)(n) of schedule 1, for the words from “Table B” to the end, substitute “Part 1 of Table B in Schedule 1 to the Public Water Supplies (Scotland) Regulations 2014 (SSI 2014/364)”.

Revocations

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

- (a) the Surface Waters (Abstraction for Drinking Water) (Classification) (Scotland) Regulations 1996(29);
- (b) the Water Supply (Water Quality) (Scotland) Regulations 2001(30); and
- (c) the Water Supply (Water Quality) (Scotland) Amendment Regulations 2001(31).

(2) The following provisions are revoked—

- (a) paragraphs 10 and 13 in Schedule 1 to the Water Industry (Scotland) Act 2002 (Consequential Provisions) Order 2003(32);
- (b) regulation 37(1)(c) of the Private Water Supplies (Scotland) Regulations 2006(33);
- (c) regulations 7 to 14 of the Water Quality (Scotland) Regulations 2010(34);
- (d) paragraph 9 in Schedule 1 to the European Union (Amendments in respect of the Accession of Croatia) (Scotland) Regulations 2013(35); and
- (e) paragraph 4 in Schedule 5 to the Construction Products Regulations 2013(36).

PART 16**TRANSITIONAL PROVISIONS****Water supply zones**

51.—(1) The named areas designated by Scottish Water as its water supply zones for the year 2015 in accordance with regulation 3(1) and (2) of the 2001 Regulations are to be treated as areas designated (and named as such) by Scottish Water to be water supply zones for that year in accordance with regulation 3 of these Regulations.

(2) In regulation 2(1), “water supply zone” includes the areas that are treated as water supply zones for the year 2015 by virtue of paragraph (1).

Authorised departures

52. Regulation 24(4)(c) does not apply in relation to an application for authorisation made under regulation 20 of the 2001 Regulations(37) which was—

- (a) made before 1st January 2015; and

(28) 2003 asp 8.

(29) S.I. 1996/3047, as amended by S.S.I. 2001/207 and S.S.I. 2003/331.

(30) S.S.I. 2001/207, as amended by S.S.I. 2001/238, S.S.I. 2003/331, S.S.I. 2010/95, S.S.I. 2013/177 and S.I. 2013/1387.

(31) S.S.I. 2001/238.

(32) S.S.I. 2003/331.

(33) S.S.I. 2006/209, to which there are amendments not relevant to these Regulations.

(34) S.S.I. 2010/95.

(35) S.S.I. 2013/177.

(36) S.I. 2013/1387.

(37) By virtue of section 17(2)(b) of the Interpretation Act 1978 (c.30), an application made under regulation 20 of the Water Supply (Water Quality) (Scotland) Regulations 2001 has effect as if made under regulation 24 of these Regulations.

(b) not determined by the Scottish Ministers before that date.

St Andrew's House,
Edinburgh
17th December 2014

AILEEN McLEOD
Authorised to sign by the Scottish Ministers