Business and Regulatory Impact Assessment

Title of Proposal

The Private and Public Water Supplies (Miscellaneous Amendments) (Scotland) Regulations 2015

Purpose and Intended Effect

- **Background**

  Currently drinking water in Scotland is regulated under the following domestic legislation:-

  - The Private Water Supplies (Scotland) Regulations 2006
  - The Water Scotland Act 1980
  - The Public Water Supplies (Scotland) Regulations 2014.

  The Council Directive 2013/51/Euratom ("the new Directive") provides the requirements for monitoring radioactive substances in drinking water. This needs to be transposed into our current drinking water quality legislation.

  The new Directive specifically refers to Radon, Tritium and Indicative Dose(ID). Tritium and ID have previously been partly transposed into the 2014 and 2006 Regulations.

  It is our intention fully to transpose this new Directive into our current legislative framework. It is likely this transposition will impact on Scottish Water, Local Authorities and businesses which utilise a private water supply.

- **Objective**

  The current private and public water supplies Regulations already specify how drinking water in Scotland should be monitored and regulated. Monitoring requirements for indicative dose and tritium have already been transposed, with parametric values and monitoring frequencies in place.

  The parametric value for radon and monitoring frequencies need to be transposed. Analytical performance characteristics must also be included in the regulations for radioactive substance analysis.

- **Rationale for Government Intervention**

  To transpose the new Directive fully, ensuring this new Directive is fully implemented into Scottish legislation.

  Drinking water supplies impact on a number of policy areas, such as health, tourism and housing. These regulations contribute to the Healthier strategic objective, as well as the National Outcome that we live longer, healthier lives.

Consultation

- **Within Government**
  Colleagues in Department for Environment, Food and Rural Affairs (DEFRA) (Drinking Water Inspectorate (DWI)) and DWI Northern Ireland have been consulted on this.

- **Public Consultation**

  A public consultation on these Regulations took place from 3 July to 28 August 2015.

- **Business**

  We have already consulted Scottish Water on the inclusion of a new parametric value for radon in the public consultation on the consolidation and amendments to the Public Water Supplies (Scotland) Regulations 2014. No concerns were highlighted by Scottish Water or any of the responders. Scottish Water are in the process of gaining laboratory accreditation for radon analysis and staff training is in place.

  It was our intention to consult businesses on this during the public consultation. The consultation was sent specifically to the following business representative groups –

  Scottish Land and Estates
  SNFU
  Scottish Independent Hostels
  Association of Scottish Self Caterers
  British Home and Holiday Park Association
  Scottish Association of Landlords

  Local Authorities also agreed to send the consultation to up to ten businesses registered on their Private Water Supplies (PWS) register.

  No responses were received from these consultees.

Options

Option 1 – Do Nothing

If no amendments are made then the Directive will remain partially transposed.

If the Directive were not fully transposed, this would give rise to a risk of infraction proceedings.

Option 2 – Fully transpose the new Directive

Council Directive 2013/51/Euratom provides the requirements for monitoring radioactive substances in drinking water. The new Directive specifically refers to Radon, Tritium and Indicative Dose (ID).

Once transposed in domestic legislation we will fully comply with the Directive.

Sectors and Groups Affected

Scottish Water

Owners and users of some private water supplies (PWS), particularly those on Type A supplies.

Local authorities with responsibility for monitoring Type A private water supplies.

Benefits

There are no real benefits from option 1. Businesses may benefit in the short term as they would not have to meet the additional sampling and analytical costs for radon monitoring.

The benefits of option 2 are that there will be a rigorous surveying, sampling and monitoring programme in place for radon in drinking water. As the Directive will be fully implemented, there is no infraction risk.

Costs

There are no additional costs associated with option 1 for Scottish Water or businesses on private water supplies. However, the financial penalties which could potentially be imposed for a failure to transpose the Directive could be significant.

Option 2 will result in some additional costs for Scottish Water, Local Authorities, and businesses which use a private water supply. These costs are likely to be in relation to accreditation for laboratories, equipment, staff training and analysis.

A report carried out on behalf of DEFRA on the implication of the new Directive requirements for radon in drinking water has suggested the following costs:-

Laboratory based gamma spectrometry system - £70,000 - £90,000
LS Counting Spectrometer - £30,000 - £50,000
Staff training and Laboratory Accreditation - £5,000 - £10,000

Additional staff time per sample – 90mins – 160mins

In their response to the consultation, Scottish Water stated that the majority of their costs in terms of gaining analytical accreditation for radon had now been met. The additional costs resulting from the requirement to undertake radon sampling were

able to be absorbed into their operational costs, partly owing to a reduction in tritium sampling costs consequential on a change to the tritium sampling requirements in 2014, although there was a potential for future funding to be required to meet their regulatory obligations regarding radon.

Businesses on a private water supply may incur the costs of additional sampling and analysis fees in the order of £50 - £100 per sample. Not all private water supplies will require monitoring as only those at high risk of presence of radon will be sampled. The majority of private water supplies are in the lowest sampling frequency category and the monitoring frequency will be once per year. It should be noted that the private water supply regulations currently state that local authorities may charge for costs incurred, but this is capped at £435 per supply.

There may be a requirement for sampling training for local authority Environmental Health Officers. Dissolved radon in water is readily degassed once containment pressure is released, and therefore sampling requires specific training. Local authorities may opt to sub-contract sampling to the analysing laboratory.

The Scottish Government commissioned a survey in 2014/15 to assess which supplies will require monitoring due to their specific characteristics. Based on the results from this survey we would anticipate that Scottish Ministers will consider that monitoring is not required from supplies originating from surface water sources and that only a proportion of ground water sources will require monitoring due to the nature of the geology in the area. We estimate that between 477 and 779 supplies will be monitored annually with costs per year in the range of £58,000 to £94,000.

A monitoring survey is currently ongoing and the results from this survey will be used to refine monitoring costs for the final BRIA.

Monitoring data obtained during 2015 shows the vast majority of those supplies sampled to contain radon at levels significantly below 100Bq/l and all results are below the action threshold of 1000Bq/l. We do not anticipate a need for the installation of water treatment to reduce the presence of radioactive substances in water.

Scottish Firms Impact Test

As previously stated, we ensured that Scottish Water and a number of specific business interests were made aware of the consultation. We received comments from Scottish Water but none from the other business interests.

Competition Assessment

Using the Competition and Markets Authority Competition Filter questions we have concluded that the proposals will neither directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

Test Run of Business Forms

There are no new forms of business.

Legal Aid Impact Test

There will be no impact on the legal aid fund. There is no scope for legal aid to be sought or awarded. There is no court procedure involved.

Enforcement, Sanctions and Monitoring

The options will be enforced in the same way other water quality issues are, the regulations do not include any changes to the current enforcement provisions.

For public supplies, the Drinking Water Quality Regulator for Scotland (DWQRS) has the power to serve an enforcement notice on Scottish Water to require improvements to drinking water quality. Scottish Water provide a monthly data return of all regulatory sample results to Scottish Ministers and DWQRS. This will continue and DWQRS will monitor compliance with the standards in these regulations.

For private supplies, supplies which are assessed as requiring radon monitoring will be sampled at least once a year and have their risk assessment reviewed annually. Every five years the local authority will complete another full risk assessment. If supplies are failing local authorities will still have the power to serve an improvement notice, stipulating what improvements will be required to the supply. Local authorities provide an annual data return to DWQRS who monitors local authorities compliance with their sampling duties and provides an annual report to Scottish Ministers both on this and on the quality of private water supplies in Scotland.

Implementation and Delivery Plan

The proposal will be implemented in legislation - The Private and Public Water Supplies (Miscellaneous Amendments) (Scotland) Regulations 2015. These Regulations will come into force on 28 November 2015.

- **Post-Implementation Review**

  The DWQRS will monitor the impact of the introduction of a threshold value for radon in drinking water and consider any practical or unforeseen consequences as they arise.

Summary and Recommendation

Option 2 is being recommended. To ensure there is no infraction risk this Directive must be implemented.

- **Summary costs and benefits table**

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1	No real benefit; businesses in the short term will not incur any additional costs.	Penalties which could potentially be imposed for failing to transpose the Directive are significant.
2	Fully compliant with the Directive, no infraction risk. Drinking water monitored for radioactive substances.	Additional financial burden for Scottish Water and Local Authorities for equipment and training. Scottish Water are to incur costs in the order of £160,000, when establishing the laboratory method. Businesses using a private water supply may incur additional monitoring and sampling costs in the order of £50-£100 per annum for affected supplies. In total the additional monitoring costs for drinking water supplies is expected to be in the range £58,000 - £94,000.

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that the business impact has been assessed with the support of businesses in Scotland.

Signed:

Date: 29 September 2015

Minister's name: Dr Aileen McLeod

Minister's title: Minister for Environment, Climate Change and Land Reform

Scottish Government Contact point:

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