

## **Title of Proposal**

The Public Water Supplies (Scotland) Amendment Regulations 2022 (“the Regulations”)

Directive (EU) 2020/2184 of the European Parliament and of the Council (“rDWD”)

## **Purpose and intended effect**

- **Background**

The rDWD was adopted by the European Parliament on 16th December 2020 and came into force on 12th January 2021. It replaces the original Drinking Water Directive (Council Directive 98/93/EC of 3 November 1998 on the quality of water intended for human consumption).

- **Objective**

The main purpose of the Regulations is to ensure Scotland keeps pace with the health based standards set out in the rDWD, which are recommended by the World Health Organisation. The Regulations will align with certain parts of the rDWD by amending the Public Water Supplies (Scotland) Regulations 2014 (“2014 Regulations”). The rDWD is designed to protect water intended for human consumption (“drinking water”) from source to tap, put in place measures in relation to access to water and drive up resource efficiency by tackling pollutants at source. The Regulations also address deficiencies in the 2014 Regulations arising from EU Exit and make further minor amendments.

- **Rationale for Government intervention**

We are aligning with the health based standards of the rDWD through a set of regulations to amend the 2014 Regulations. The Regulations would introduce the requirements in relation to new chemical and indicator parameters, such as PFAS (forever chemicals), and make some other necessary amendments (for example, to reflect EU Exit that were not taken forward previously due to the arrival of the rDWD).

- The Regulations will also amend the process that follows a risk assessment, or review of risk assessment, by Scottish Water. Current provisions in 2014 Regulations require Scottish Water to submit a copy of its risk assessment or review to Scottish Ministers. Where a risk assessment or review establishes a risk of supplying unwholesome water, Scottish Water must submit a report to Scottish Ministers who may then give notice to Scottish Water requiring it to take specific actions. The Regulations also transfer the responsibilities of the Scottish Ministers to the Drinking Water Quality Regulator for Scotland (“DWQRS”). This reflects that, in practice, the DWQRS has the necessary competencies for reviewing risk assessments and associating those risks with regulatory monitoring data.

Contributes to following Scottish National Performance Framework Outcomes:

- We are healthy and active
- We value, enjoy, protect and enhance our environment

## Consultation

- **Within Government**

The Drinking Water Quality Division have adopted a collaborative approach to the policy development process. When understanding how best to align with the rDWD in the best interests of Scotland, key stakeholders have been involved in a project steering group as well as several subsequent working groups. Stakeholders include DWQRS, Scottish Water, Water Industry Commission for Scotland, Scottish Environment Protection Agency, Consumer Scotland (formally Citizens Advice Scotland) as well as representatives from Local Authorities. This is to ensure that policy is developed in a proportionate and flexible way.

- Consultation has taken place with Scottish Water and the Drinking Water Quality Regulator as the impacts are predominately operational matters for Scottish Water.

- **Public Consultation**

Public consultation was taken forward by the European Commission on the need for the rDWD. No public consultation has been undertaken on the Regulations as these are a technical set of changes which are designed to protect public health.

- **Business**

N/A

## Options

No options considered as the Scottish Government have set out that they wish to align with the health based standards and other provisions of the rDWD. These are health based standards as recommended by the World Health Organisation and are designed to protect human health.

## Sectors and groups affected

- Scottish Water
- Drinking Water Quality Regulator

## Benefits

We are able to align with the rDWD requirements that will be in place for the EU, which include introducing health based requirements in relation emerging pollutants that are of concern to the public new chemical and indicator parameters, such as microplastics, endocrine disrupting chemicals etc.

By coming into force for the 1<sup>st</sup> January 2023 we can ensure that the new parameters are measured for a full calendar year to support the regulatory reporting of drinking water quality.

## Costs

Most of the changes will have little immediate impact on costs of providing drinking water in Scotland as water quality provided by Scottish Water is already very high as

shown in the DWDRS's Annual Report<sup>1</sup>. Scottish Water has noted that it will require up to £10m to improve the storage of chemicals in order to meet the new Chlorite and Chlorate standards; these upgrades can be funded as part of the £800m annual capital programme. Minor costs will be incurred to sample the new parameters. New provisions allowing Scottish Water to reduce monitoring frequencies for certain parameters, with the agreement of the DWQR and in the light of a risk assessment, will ensure that costs are no more than necessary.

### **Scottish Firms Impact Test**

Not Applicable. Impact on prices will be minimal.

Drinking water that meets the highest standards is in the interests of businesses.

### **Competition Assessment**

The Regulations will not have any impact on the water industry. This updates health based standards which are applicable to Scottish Water which is responsible for the provision of drinking water to 97% of the Scottish population.

It will have no impact on competition within the industry or within the retail market which operates within the business sector. It will not have any impact on any competitive market operating in Scotland.

### **Consumer Assessment**

The Regulations align with standards recommended by the World Health Organisation that are designed to protect human health and ensure that water is safe to drink. The costs of meeting the standards are marginal in the context of Scottish Water's wider investment programme to provide water and sewerage services.

These regulations will affect the quality of drinking water provided by Scottish Water. It has no impact on consumer rights, complaints mechanisms etc.

The Regulations will transfer functions from the Scottish Association of Citizens Advice Bureaux to Consumer Scotland, which will assume the responsibilities of the former in relation to water. This will require information to be provided to Consumer Scotland as part of the process for granting authorisations of a temporary supply of water which is not wholesome.

### **Test run of business forms**

Not Applicable - no new forms will be introduced for businesses to complete.

### **Digital Impact Test**

The measure has no impact of digital technologies. In line with reporting requirements, Scottish Water will publish compliance with the new standards. The DWQRS will verify compliance.

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<sup>1</sup> [annual-report-public-supplies-2021.pdf \(dwqr.scot\)](#)

## **Legal Aid Impact Test**

Not Applicable. The measure has no consequences for Justice or access to legal representation. It simply updates drinking water standards to protect public health.

## **Enforcement, sanctions and monitoring**

These are health based measure changes, and there are no changes being made to enforcement, sanctions and monitoring. Compliance with the standards will be monitored and, where necessary, enforced by the Drinking Water Quality Regulator for Scotland under existing arrangements established under the Water Industry (Scotland) Act 2002.

## **Implementation and delivery plan**

The measures will take effect immediately.

- **Post-implementation review**

Will be reviewed within 10 years or sooner if new parameters or standards are recommended by the World Health Organisation.

## **Summary and recommendation**

Not applicable. These are health based measures. The costs of implementation are small relative to the overall costs incurred by the Water Industry in Scotland.

## **Declaration and publication**

- **Sign-off for Final BRIAs:**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed and that there are no material financial impacts on businesses in Scotland.

**Signed: Màiri McAllan**

**Date: 31 October 2022**

**Màiri McAllan MSP**

**Minister for Environment and Land Reform**