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STATUTORY INSTRUMENTS

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**2016 No. 618**

**The Private Water Supplies (England) Regulations 2016**

**PART 1**

General

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Private Water Supplies (England) Regulations 2016 and come into force on 27th June 2016.

(2) They apply in relation to England only.

**Interpretation**

2.—(1) In these Regulations—

“the 2009 Regulations” means the Private Water Supplies Regulations 2009<sup>M1</sup>;

“the Act” means the Water Industry Act 1991;

“audit monitoring” has the meaning given in paragraph 3(2) of Part 2 of Schedule 2;

“check monitoring” has the meaning given in paragraph 1(2) of Part 1 of Schedule 2;

“consumer” means a person to whom a private water supply is provided for human consumption purposes;

“disinfection” means a process of water treatment to remove, or render harmless to health, every pathogenic micro-organism and pathogenic parasite that would otherwise be present in the water;

“indicative dose” (ID) means the committed effective dose for 1 year of ingestion resulting from all the radionuclides whose presence has been detected in a supply of water intended for human consumption, of natural and artificial origin, excluding tritium, potassium-40, radon and short-lived radon decay products;

“indicator parameter” means a parameter listed in Table C in Part 2 of Schedule 1;

“local authority” means any of the following—

- (a) the Common Council of the City of London;
- (b) a London borough council;
- (c) a district council;
- (d) the council of a county in which there are no district councils;

“NTU” means Nephelometric Turbidity Unit;

“parameter” means a property, element, organism or substance listed in the first column of the Tables in Schedule 1 as read, where appropriate, with the notes to that Schedule and those Tables;

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*Changes to legislation: There are currently no known outstanding effects for the The Private Water Supplies (England) Regulations 2016. (See end of Document for details)*

“prescribed concentration or value”, in relation to any parameter, means the maximum or minimum concentration or value specified in relation to that parameter in the Tables in Schedule 1 as measured by reference to the unit of measurement so specified, and as read, where appropriate, with the notes to that Schedule and those Tables;

“private water supply” or “private supply of water” means a supply of water other than a supply provided directly by a water undertaker<sup>M2</sup> or licensed water supplier<sup>M3</sup>, and which is comprised of all physical assets from the point of abstraction to the point of use, including associated pipes, fittings and tanks;

“radioactive parameters table” has the meaning given in regulation 11(1);

“relevant person” means—

- (a) the owner and occupier (who may be the same or different persons) of premises which are supplied with water for domestic or food production purposes by means of a private supply;
- (b) the owner and occupier (who may be the same or different persons) of land on which any part of the supply is situated;
- (c) any other person who exercises powers of management or control in relation to that supply;

“risk assessment” means a risk assessment carried out under regulation 6.

(2) In these Regulations, a reference to an application or notice includes a reference to that application or notice in electronic form.

#### **Marginal Citations**

**M1** S.I. 2009/3101, amended by S.I. 2010/991, 2013/235.

**M2** See section 6 of the Act for the meaning of “water undertaker”.

**M3** See sections 17A and 219(1) of the Act for the meaning of “licensed water supplier”. This definition is prospectively repealed by paragraph 120 of Schedule 7 to the Water Act 2014 from a date to be appointed.

#### **Scope**

**3.—(1)** These Regulations apply in relation to private supplies of water intended for human consumption and for these purposes “water intended for human consumption” means all water—

- (a) either in its original state or after treatment, intended for drinking, cooking, food preparation or other domestic purposes, regardless of its origin and whether it is supplied from any distribution network, from a tanker, or in bottles or containers;
- (b) used in any food production undertaking for the manufacture, processing, preservation or marketing of products or substances intended for human consumption unless, in accordance with Regulation (EC) No 852/2004 of the European Parliament and of the Council on the hygiene of foodstuffs<sup>M4</sup>, the competent authority<sup>M5</sup>, is satisfied that the quality of the water cannot affect the wholesomeness of the foodstuff in its finished form.

(2) These Regulations do not apply in relation to—

- (a) water controlled by the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007<sup>M6</sup>;
- (b) water that is a medicinal product within the meaning of the Medicines Act 1968<sup>M7</sup> or a product in which any provision of that Act has effect as if it were such a medicinal product.

#### **Marginal Citations**

- M4** OJ No L 139, 30.4.2004, p 1 as last amended by Regulation (EC) No 219/2009 (OJ No L 87, 31.3.2009, p 109).
- M5** The competent authority for the purpose of this Regulation is the Food Standards Agency (see [S.I. 2013/2996](#)).
- M6** [S.I. 2007/2785](#), to which there are amendments not relevant to these Regulations.
- M7** 1968 c. 67.

## **PART 2**

### **Water standards**

#### **Wholesomeness**

4.—(1) A private supply of water is to be regarded as wholesome if the following conditions are met—

- (a) it does not contain any micro-organism, parasite or substance, alone or in conjunction with any other substance, at a concentration or value that would constitute a potential danger to human health,
- (b) it complies with the concentrations or values prescribed in Part 1 of Schedule 1 for each parameter, and
- (c) the water satisfies the formula “[nitrate]/50 + [nitrite]/3 ≤ 1”, where the square brackets signify the concentrations in mg/l for nitrate (NO<sub>3</sub>) and nitrite (NO<sub>2</sub>).

#### **Use of products or substances in private supplies and disinfection arrangements**

5.—(1) Any product or substance used in the preparation or distribution of a private supply of water, or impurities associated with such products or substances, must not be present in water at the point of use at levels that would make it unwholesome or constitute a potential danger to human health.

(2) Where disinfection forms part of the preparation or distribution of water, the relevant person must—

- (a) design, operate and maintain the disinfection process so as to keep disinfection by-products as low as possible without compromising the effectiveness of the disinfection,
- (b) ensure that the effectiveness of the disinfection process is maintained, and
- (c) verify the effectiveness of the disinfection process.

#### **Requirement to carry out a risk assessment**

6.—(1) Subject to paragraphs (2) and (3), a local authority must carry out a risk assessment for every private water supply in its area and review and update that risk assessment every 5 years (or earlier if it considers that the existing risk assessment is inadequate).

(2) In the case of a supply provided to a single dwelling, the duty in paragraph (1) applies only where that supply is provided as part of a commercial or public activity.

(3) In the case of any other supply provided to a single dwelling, a local authority must carry out a risk assessment if requested to do so by the owner or occupier of that dwelling.

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(4) The risk assessment must establish whether there is a risk of supplying water that would constitute a potential danger to human health.

## **PART 3**

### **Monitoring**

#### **Monitoring**

7. A local authority must monitor all private water supplies in accordance with this Part when carrying out its duties under section 77(1) of the Act (general functions of local authorities in relation to water quality).

#### **Further distribution of supplies from water undertakers or licensed water suppliers**

8. Where water is supplied by a water undertaker or licensed water supplier, and is then further distributed by a person other than a water undertaker or licensed water supplier, the local authority must carry out monitoring on the basis of the risk assessment.

#### **Large supplies and supplies as part of a commercial or public activity**

9.—(1) Paragraph (2) applies in the case of a private water supply (other than a supply specified in regulation 8) that—

- (a) supplies an average daily volume of water of 10m<sup>3</sup> or more, or
- (b) supplies water as part of a commercial or public activity.

(2) Where this paragraph applies, the local authority must monitor for any parameter in Parts 1 and 2 of Schedule 1 in accordance with Schedule 2 and carry out any additional monitoring that the risk assessment shows to be necessary.

#### **Other private supplies**

10.—(1) In the case of a private water supply not covered by regulation 8 or 9 or by paragraph (3), the local authority must monitor for—

- (a) conductivity,
- (b) enterococci,
- (c) *Escherichia coli* (*E. coli*),
- (d) hydrogen ion,
- (e) turbidity,
- (f) any parameter in Parts 1 and 2 of Schedule 1 identified in the risk assessment as being at risk of not complying with the concentrations or values in that Schedule, and
- (g) anything else identified in the risk assessment as a potential danger to human health.

(2) The local authority must carry out the monitoring required by paragraph (1) at least every 5 years and more frequently if the risk assessment shows this to be necessary.

(3) In the case of a private water supply to a single dwelling not provided as part of a commercial or public activity, a local authority may monitor the supply in accordance with this regulation, and must do so if requested to do so by the owner or occupier of that dwelling.

## **Monitoring for radioactive substances**

**11.**—(1) A local authority must monitor each private water supply in its area (other than a supply covered by paragraph (8)) for the parameters specified in Table D in Part 3 of Schedule 1 (“the radioactive parameters table”) in accordance with paragraphs (2) to (7) and (9).

- (2) As regards the indicative dose parameter, the local authority—
- (a) must carry out monitoring where an artificial source of radionuclides or elevated natural radioactivity is present and it cannot be shown on the basis of other surveillance programmes or investigations that the level of indicative dose is below the value specified in the radioactive parameters table;
  - (b) may use a screening strategy for gross alpha and gross beta activity or for individual radionuclides and, in the event that there is any exceedance of the value specified in that Table, must carry out an analysis of the specific radionuclides in accordance with Part 3 of Schedule 3.
- (3) As regards the radon parameter, the local authority must—
- (a) ensure a representative survey is carried out in accordance with paragraph (4) to determine the likelihood of a supply failing the value specified in the radioactive parameters table;
  - (b) carry out monitoring where there is reason to believe, on the basis of the results of the representative survey or other reliable information, that the parametric value for radon might be exceeded.
- (4) A representative survey must be designed in such a way—
- (a) as to be capable of determining the scale and nature of likely exposure to radon in water intended for human consumption originating from different types of groundwater sources and wells in different geological areas, and
  - (b) that underlying parameters (in particular the geology and hydrology of the area, radioactivity of rock or soil) and well type can be identified and used to direct further action to areas of likely high exposure.
- (5) As regards the tritium parameter, the local authority must carry out—
- (a) monitoring, where an anthropogenic source of tritium or other artificial radionuclides is present within the catchment area and it cannot be shown on the basis of other surveillance programmes or investigations that the level of tritium is below the value specified in the radioactive parameters table;
  - (b) an investigation of the presence of other artificial radionuclides, where the concentration of tritium exceeds its parametric value.
- (6) In the case of a private water supply to which regulation 9 applies, where monitoring is required by paragraph (2) or (5), it must be carried out at the frequencies as set out for audit monitoring in Table 3 in Part 2 of Schedule 2.
- (7) In the case of a private water supply to which regulation 8 or 10(1) applies (but excluding a supply covered by paragraph (8)), where monitoring is required by paragraph (2) or (5), it must be carried out at least every 5 years and more frequently if the risk assessment shows this to be necessary.
- (8) In the case of a private water supply to a single dwelling not provided as part of a commercial or public activity, a local authority may monitor the supply in accordance with paragraphs (2) to (5), and must do so if requested to do so by the owner or occupier of that dwelling.
- (9) Where a parametric value is exceeded in a particular sample, the local authority must define the extent of re-sampling necessary to ensure that the measured values are representative of an average activity concentration for a full year.

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(10) The local authority may, for such time as it may decide, exclude from monitoring a parameter contained in the radioactive parameters table—

- (a) if it considers that the parameter in question is unlikely to be present in the supply or system at a concentration or value that poses a risk of the private water supply failing to meet the concentration, value or state specified in the radioactive parameters table in respect of that parameter,
- (b) taking into account the findings of any risk assessment, and
- (c) taking into account any guidance issued by the Secretary of State.

(11) The local authority must provide the Secretary of State with the grounds for a decision under paragraph (10) and the necessary documentation supporting the decision (including the findings of any surveys, monitoring or investigations carried out).

(12) The Secretary of State must communicate to the European Commission the grounds for a decision under paragraph (10) and the information provided under paragraph (11).

### **Sampling and analysis**

**12.**—(1) When a local authority monitors a private water supply in accordance with regulations 8 to 11, it must take a sample—

- (a) if the water is supplied for domestic purposes, from a tap normally used to supply water for human consumption (and which, if there is more than one tap, is representative of the water supplied to the premises);
  - (b) if the water is used in a food-production undertaking, at the point at which it is used in the undertaking;
  - (c) if the water is supplied from a tanker, at the point at which it emerges from the tanker;
  - (d) in any other case, at a suitable point.
- (2) The local authority must ensure that the sample is analysed in accordance with Schedule 3.
- (3) The further provisions for sampling and analysis in Schedule 3 apply.

### **New supplies**

**13.**—(1) Where a local authority becomes aware of a private water supply that is to be, or has been, used for the first time (or for the first time after being out of use for a period of 12 months or more), the requirements of regulations 6 to 12 and 14 to 16 must be complied with as soon as is reasonably practicable.

(2) A private water supply must not be brought into use or used until the local authority is satisfied that the supply does not constitute a potential danger to human health.

### **Records**

**14.**—(1) A local authority must make and keep records in respect of every private water supply in its area in accordance with Schedule 4.

(2) By 31st January of every year, a local authority must send the Secretary of State a copy of the records mentioned in Schedule 4.

## PART 4

### Action in the event of failure

#### Provision of information

15. If a local authority considers that a private water supply in its area is a potential danger to human health, it must promptly take appropriate steps to ensure that people likely to consume water from it—

- (a) are informed that the supply constitutes a potential danger to human health,
- (b) where possible, are informed of the nature of the potential danger, and
- (c) are given advice to allow them to minimise any potential danger.

#### Investigations

16.—(1) A local authority must carry out an investigation to establish the cause if it suspects that a private water supply is unwholesome or that an indicator parameter does not comply with the concentrations or values prescribed in Part 2 or 3 of Schedule 1.

(2) Once a local authority has carried out an investigation and established the cause of the water being unwholesome, it must act in accordance with paragraphs (3) and (4).

(3) If the cause of the water being unwholesome is due to the distribution system within a domestic premises (whether or not the water is made available to the public in those premises), the local authority must promptly inform the people likely to be affected and offer them advice on measures necessary for the protection of human health.

(4) In addition to the duty in paragraph (3) (where it applies), if the cause of the water being unwholesome is due to the circumstances described in paragraph (5), the local authority must—

- (a) if the water is a potential danger to human health and the conditions in regulation 18 are fulfilled, serve a notice under that regulation, or
- (b) within 28 days of becoming aware of the failure and if appropriate remedial action has not been taken, serve a notice in accordance with section 80 of the Act (remedial powers of local authorities in relation to private supplies) unless the local authority grants an authorisation in accordance with regulation 17(2).

(5) The circumstances in this paragraph are—

- (a) if the cause of the water being unwholesome is due to the distribution system within domestic premises where water is made available to the public;
- (b) if the cause of the water being unwholesome is not due the distribution system within domestic premises.

#### Authorisations of different standards

17.—(1) Any relevant person may apply to the local authority for a grant of an authorisation under this regulation.

(2) The local authority may grant an authorisation of different prescribed concentrations or values under this regulation if—

- (a) the only cause of the unwholesome water is that a parameter in Table B in Part 1 of Schedule 1 is not complied with,
- (b) the local authority has consulted all water users who will be affected by the authorisation and Public Health England, and has taken their views into account,

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- (c) granting the authorisation does not cause a potential danger to human health, and
  - (d) the supply of water cannot be maintained by any other reasonable means.
- (3) An authorisation must require the applicant to take action over a period of time to ensure that the relevant parameters are complied with, and must specify—
- (a) the person to whom an authorisation is granted,
  - (b) the supply concerned,
  - (c) the grounds for granting an authorisation,
  - (d) the parameters concerned, previous relevant monitoring results, and the maximum permissible values under the authorisation,
  - (e) the geographical area, the estimated quantity of water supplied each day, the number of persons likely to be affected and whether or not any food production undertaking is affected,
  - (f) an appropriate monitoring scheme, with an increased monitoring frequency where necessary,
  - (g) a summary of the steps for the necessary remedial action, including a timetable for the work and an estimate of the cost and provisions for reviewing progress, and
  - (h) the duration of the authorisation.
- (4) If the local authority grants an authorisation, and the person to whom it is granted takes action in accordance with the timetable specified in the authorisation, the local authority may not serve a notice under section 80 of the Act concerning the matters specified in the authorisation without first amending or revoking the authorisation.
- (5) The duration of the authorisation must be as short as possible and in any event must not exceed 3 years.
- (6) The local authority must ensure that people likely to be affected by the authorisation are promptly informed of the authorisation and its conditions, and, where necessary, ensure that advice is given to particular groups to whom the authorisation could present a special risk.
- (7) If the supply exceeds 1,000m<sup>3</sup> a day as an average or serves more than 5,000 persons, the local authority must send a copy of the authorisation to the Secretary of State within 1 month.
- (8) The local authority must keep the progress of the remedial action under review.
- (9) If necessary, the local authority may grant a second authorisation for up to a further 3 years with the prior consent of the Secretary of State.
- (10) The local authority may revoke or amend the authorisation at any time and in particular may revoke or amend it if the timetable for remedial action has not been adhered to.

## PART 5

### Notice procedure

#### Notices

**18.**—(1) If any private supply of water intended for human consumption constitutes a potential danger to human health, a local authority must serve a notice under this regulation on any relevant person.

- (2) The notice must—
  - (a) identify the private water supply to which it relates,



- (b) state the grounds for serving the notice,
  - (c) prohibit or restrict the use of that supply, and
  - (d) specify what other action is necessary to protect human health and to restore the quality of the water supply.
- (3) The local authority must promptly inform consumers of the private water supply to which the notice relates and provide any necessary advice.
- (4) The notice may be subject to conditions and may be amended by further notice at any time.
- (5) The local authority must revoke the notice as soon as it becomes aware that there is no longer a potential danger to human health.
- (6) It is an offence for a person on whom a notice under this regulation is served to fail to comply with a notice served under this regulation.

### Appeals

**19.**—(1) Any person who is aggrieved by a notice served under regulation 18 may appeal to the magistrates' court within 28 days of service of the notice.

(2) The procedure on appeal to a magistrates' court under paragraph (1) is by way of complaint, and the Magistrates' Courts Act 1980<sup>M8</sup> applies to the proceedings.

(3) A notice remains in force unless suspended by the court.

(4) On an appeal, the court may either cancel the notice or confirm it, with or without modification.

#### Marginal Citations

M8 1980 c. 43.

### Penalties

**20.**—(1) A person who fails to comply with a notice served under regulation 18 is liable—

- (a) on summary conviction to a fine or to a term of imprisonment not exceeding 3 months, or both;
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 2 years, or both.

(2) Where a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate, or
- (b) any person who was purporting to act in any such capacity,

that person is guilty of the offence as well as the body corporate.

(3) In paragraph (2), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

## PART 6

### Miscellaneous

#### Fees

21. Provision for charging fees is set out in Schedule 5.

#### Review

22.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision in these Regulations, and
- (b) publish a report setting out the conclusions of the review.

(2) In carrying out a review of any regulatory provision which implements an obligation in Council Directive 98/83/EC on the quality of water intended for human consumption<sup>M9</sup> and Council Directive 2013/51/Euratom laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption<sup>M10</sup>, the Secretary of State must have regard to how the obligation is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision,
- (b) assess the extent to which those objectives are achieved,
- (c) assess whether those objectives remain appropriate, and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.

(5) Subsequent reports under this regulation must be published at intervals not exceeding five years.

(6) In this regulation, “regulatory provision” has the meaning given by section 32(4) of the Small Business, Enterprise and Employment Act 2015<sup>M11</sup>.

#### Marginal Citations

**M9** OJ No L 330, 5.12.1998, p 32, as last amended by Commission Directive (EU) 2015/1787 (OJ No L 260, 7.10.2015, p 6).

**M10** OJ No L 296, 7.11.2013, p 12.

**M11** 2015 c. 26.

#### Revocations

23.—(1) The 2009 Regulations are revoked.

(2) Regulation 10 of the Water Supply Regulations 2010<sup>M12</sup> is revoked.

(3) Paragraph 133 of Schedule 2 to the National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Savings Provisions) Order 2013<sup>M13</sup> is revoked.

**Marginal Citations**

**M12** S.I. 2010/991.

**M13** S.I. 2013/235.

**Transitional provisions**

**24.**—(1) On the coming into force of these Regulations—

- (a) an authorisation granted under regulation 17(2) of the 2009 Regulations which is in force immediately before the coming into force of these Regulations is taken to be an authorisation granted under regulation 17(2) of these Regulations;
- (b) a second authorisation granted under regulation 17(9) of the 2009 Regulations which is in force immediately before the coming into force of these Regulations is taken to be a second authorisation granted under regulation 17(9) of these Regulations;
- (c) a notice served under regulation 18 of the 2009 Regulations which is in force immediately before the coming into force of these Regulations (“an existing notice”) is taken to be a notice served under regulation 18 of these Regulations.

(2) An appeal may be made under regulation 19(1) of these Regulations against an existing notice if, on the date these Regulations come into force, the time for making an appeal under regulation 19(1) of the 2009 Regulations had not expired.

Department for Environment, Food and Rural  
Affairs  
26th May 2016

*Rory Stewart*  
Parliamentary Under Secretary of State

**Status:**

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**Changes to legislation:**

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