
EXPLANATORY NOTE

(This note does not form part of the Regulations.)

These Regulations supplement Chapter III (Water Supply) of the Water Industry Act 1991 (“the 1991 Act”), amend, for a limited period, the Water Supply (Water Quality) Regulations 1989 (“the 1989 Regulations”) and, on 1st January 2004, revoke and replace those Regulations. They are primarily concerned with the quality of water supplied by water undertakers whose areas are wholly or mainly in Wales for drinking, washing, cooking and food preparation, and for food production, and with arrangements for the publication of information about water quality.

The Regulations are directed at the achievement of the objective set out in Article 2 of Council Directive 98/83/EC (OJNo. L 330, 5.12.98, p.32) (“the 1998 Directive”), namely, to protect human health from the adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome and clean. In particular, effect is given in Part III of the Regulations to Articles 4 and 5 of the 1998 Directive which relate to the quality of water intended for human consumption and, in Part V, to Article 7 (monitoring) of that Directive.

Subject to the exceptions mentioned below, the Regulations come into force on 1st January 2004. Regulations 1 and 2 (which deal with commencement, application and interpretation), regulation 25 (which deals with interpretation of Part VII), regulations 27 to 29 (which deal with cryptosporidium), so much of regulation 33 (which deals with offences) as relates to contraventions of paragraph (9) of regulation 28 or regulation 29, regulation 39 (which deals with contraventions by water undertakers), regulation 40 (which introduces the amendments to the 1989 Regulations set out in Schedule 5), regulation 41 (a transitional provision requiring the submission of programmes of work) and paragraph (1) of regulation 43 (revoking parts of the 1989 Regulations) come into force on 1st January 2002.

Regulation 3 (which deals with water supply zones) and regulation 42 (a transitional provision enabling applications to be made for authorisations) come into force on 1st June 2003.

Regulation 4 (which prescribes new standards of wholesomeness), regulations 17 to 24 (which deal with sampling), paragraphs (4) and (5) of regulation 30 (which deals with lead pipes) and paragraph (2) of regulation 43 (which revokes provisions of the 1989 Regulations superseded by regulations 4 and 17 to 24) come into force on 25th December 2003, when the 1998 Directive takes effect.

Part I of the Regulations (regulations 1 and 2) defines terms that are used in the Regulations.

Part II (regulation 3) requires water undertakers to identify annually the areas (“water supply zones”) that are to be relevant for a particular year for the purposes of the application of provisions of the Regulations. A water supply zone may not comprise an area in which the estimated population exceeds 100,000. Water undertakers may not alter the boundaries of water supply zones during the year.

Part III (regulation 4) prescribes standards of wholesomeness in respect of water that is supplied by water undertakers for cooking, drinking, food preparation and washing and other domestic purposes and to premises for food production purposes. These various purposes are referred to in the Regulations as “regulation 4(1) purposes”. In particular, regulation 4 provides that water is to be regarded as wholesome if it contains concentrations or values in respect of various properties, elements, organisms and substances that do not contravene prescribed maximum and, in some cases, minimum concentrations or values. Some of the prescribed maximum and minimum concentrations and values are specified in regulation 4, but most are included in Tables A and B which appear in

Schedule 1 to the Regulations. They include the values specified in Parts A and B of Annex 1 to the 1998 Directive. There are also specifications for indicator parameters in Schedule 2.

Part IV (regulations 5 to 10) provides for the monitoring of water supplies by reference to the analysis of samples. Regulation 5 defines two monitoring regimes; “audit” monitoring and “check” monitoring. Regulation 6 requires water undertakers to take a minimum number of samples each year in respect of a variety of properties, elements, organisms and substances. It also makes special provision for monitoring supplies from tankers. Regulation 7 requires water undertakers to select at random the consumers' taps from which samples are to be taken. Regulation 8 authorises the taking of samples from points other than consumers' taps (“supply points”) and allows the National Assembly for Wales to authorise other supply points. Regulation 9 deals with the number of samples to be taken. These are specified in Tables 1 and 2 in Schedule 3 to the Regulations, and are not less than those specified in Annex II to the 1998 Directive. Regulation 10 requires samples to be taken where water undertakers have reason to believe that the quality of the water within their water supply zone has been adversely affected by the presence of certain elements, organisms or substances.

Part V (regulations 11 to 16) contains additional provisions relating to sampling. Regulations 13 and 14 require samples to be taken in respect of particular organisms and substances, at treatment works and at reservoirs which store treated water. Regulation 15 requires samples to be taken before water is supplied from new sources and from sources which have not recently been used. Regulation 16 prescribes requirements relating to the taking, handling, storage, transport and analysis of samples.

Part VI (regulations 17 to 24) provides for the investigation of every failure to satisfy a concentration, value or state prescribed by regulation 4 and for a report to be made to the National Assembly for Wales. Where a failure relates to a Table B parameter, and certain other conditions are met, the National Assembly for Wales may require the water undertaker to apply to it for an authorisation allowing a departure from the requirements of Part III, as regards that parameter. The circumstances in which such authorisations may be issued, and the conditions to which they are subject, are contained in regulations 21 and 22, respectively. (Article 9 of the 1998 Directive permits derogations from the parametric values). Provision is made in regulation 23 for publicising authorisations. Regulation 24 provides for the modification and withdrawal of authorisations.

Part VII (regulations 25 to 33) deals with the treatment of water and regulates the substances, processes and products that may be used by water undertakers in connection with the supply of water. Regulation 26 imposes requirements relating to the disinfection of water and imposes additional requirements for the treatment of surface water. It prohibits the abstraction for the supply of drinking water of waters below category A3, as required by Council Directive [75/440/EEC](#) (quality required of surface water intended for the abstraction of drinking water). Regulations 27 to 29 relate specifically to cryptosporidium. Regulation 27 provides for the carrying out of risk assessments. Regulations 28 and 29 re-enact, with amendments, the requirements of regulations 23A and 23B of the 1989 Regulations. Regulation 28(9) prohibits the supply of water from treatment works for regulation 4(1) purposes on and after 1st January 2002 unless a risk assessment has been carried out and either the National Assembly for Wales has authorised the supply or remedial treatment has been required and is being carried out. Regulation 30 makes provision for securing the elimination or reduction to a minimum of the risk that water will be contaminated after supply by excessive concentrations of copper or lead. Regulation 31 specifies the circumstances in which water undertakers may apply or introduce substances or products into water supplied for drinking, washing or cooking. Regulation 32 enables the National Assembly for Wales to require that its approval be obtained to the use of processes. Contravention of some of the requirements of regulations 28, 29, 31 and 32 is made a criminal offence by regulation 33, as is the making of false statements.

Part VIII deals with the provision of information by water undertakers. Regulation 34 requires water undertakers to prepare and maintain records containing information about the quality of water supplied in their water supply zones. Regulation 35 requires each water undertaker to make available for public inspection, and to supply local authorities with, information about the quality of water within its water supply zones, the extent to which Part IV of the Regulations has been complied

with, details of any departures authorised under Part VI of the Regulations and of the action which has been taken to comply with enforcement orders under section 18 of the 1991 Act. It also requires each water undertaker to give notice of any occurrence which gives rise, or may give rise, to a significant risk to health. Notice is to be given to each local authority and health authority in whose area reside persons to whose health there is or may be a significant risk, and to the relevant customer service committee. Regulation 36 requires water undertakers to publish an annual report containing information about the quality of water in the area for which they are responsible.

Part IX (regulations 37 and 38) imposes requirements on local authorities in the performance of their duties in relation to the quality of water supplied by water undertakers. Regulation 38 provides for the making of arrangements between the authorities and the water undertakers about the provision of information. It also enables local authorities to take such samples of water as they may reasonably require.

Part X (regulation 39) provides that contraventions by water undertakers of duties or requirements imposed by Parts V to VIII of the Regulations are to be enforceable under section 18 of the 1991 Act by the National Assembly for Wales. This provision is additional to the criminal sanctions provided by regulation 33 in relation to contraventions of regulations 28 and 29, 31 and 32.

Part XI (regulations 40 to 43) amends the 1989 Regulations, makes transitional provisions and revokes the 1989 Regulations and other related provisions subject to savings. The amendments to the 1989 Regulations, which take effect on 1st January 2002, are set out in Schedule 5 (regulation 40). Regulation 41 requires the water undertakers to submit for the National Assembly for Wales' approval programmes of work designed to secure that the standards of wholesomeness prescribed in Part III of the Regulations will, so far as reasonably practicable, be achieved when that Part comes into force on 25th December 2003. Programmes of work are to be prepared in accordance with Schedule 6 and are to be submitted to the National Assembly for Wales before 1st April 2002. They may be approved by the National Assembly for Wales with or without modification, and may be modified where the National Assembly for Wales considers it necessary to do so for the purpose of securing that wholesomeness standards will be met on and after 25th December 2003. If a water undertaker fails to submit a programme of works, or if the submitted programme fails to meet the requirements of Schedule 6, or is otherwise unacceptable, the National Assembly for Wales may prepare one. Programmes of work will be enforceable under section 18 of the 1991 Act by the National Assembly for Wales.

Regulation 42 makes further transitional provision to enable water undertakers to apply in advance for the National Assembly for Wales' authorisation in relation to matters which, on and after 25th December 2003, will need to be authorised under Part VI of the Regulations.

Regulation 43 revokes, in stages, the 1989 Regulations, various sets of amending regulations and the amendments made by regulation 40, in relation to water undertakers whose areas are wholly or mainly in Wales and in relation to local authorities in Wales as regards the discharge of functions in relation to those undertakers. Regulation 22 of the Private Water Supplies Regulations 1991 and regulation 8(1) of the Surface Waters (Abstraction for Drinking Water) (Classification) Regulations 1996 are also revoked to the same extent, in consequence of the revocation of the 1989 Regulations. The revocation of the 1989 Regulations does not affect the obligations of water undertakers to keep records, provide information, and make reports for the year ending on 31st December 2003.

A regulatory appraisal in respect of the Regulations may be obtained from the National Assembly for Wales, Cathays Park, Cardiff, CF10 3NQ. [A copy has been placed in the library of each House of Parliament.]

Copies of the ISO standards referred to in Table A1 in Schedule 4 may be obtained from BSI, 389 Chiswick High Road, London W4 4AL.