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WELSH STATUTORY INSTRUMENTS

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**2010 No. 994**

**The Water Supply (Water Quality) Regulations 2010**

**PART VIII**

Water Treatment

**Disinfection and other treatment arrangements**

**27.**—(1) Unless the conditions in paragraph (5) are satisfied, before supplying water for regulation 4(1) purposes, a water undertaker or combined licensee must—

- (a) disinfect the water; and
- (b) where necessary, subject the water to sufficient preliminary treatment to prepare it for disinfection.

(2) A water undertaker or combined licensee must—

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

(3) Paragraph (4) applies when any property, organism or substance is present in a water source at a level that may constitute a potential danger to human health.

(4) Unless the conditions in paragraph (5) are satisfied, before supplying water for regulation 4(1) purposes using water from any source, a water undertaker or combined licensee must design and continuously operate an adequate treatment process for water from the source.

(5) The conditions are that the water undertaker or combined licensee—

- (a) Must supply water from the treatment works as a matter of urgency in order to prevent an unexpected interruption in piped supply to customers; and
- (b) before the supply is made, has taken all necessary steps to inform consumers that the water is not disinfected or adequately treated.

(6) For the purposes of this regulation—

(a) “adequate treatment process” means a process of blending or purification treatment which—

- (i) removes, or
- (ii) renders harmless the value or concentration of,

any property of, organism or substance in, water, so that supplies do not constitute a potential danger to human health;

(b) “sufficient preliminary treatment” means the treatment necessary—

- (i) to remove, or to reduce the value or concentration of, any property or substance which would interfere with disinfection, and
- (ii) to reduce turbidity to less than one Nephelometric Turbidity Unit;

- (c) water is supplied for regulation 4(1) purposes when it leaves a treatment works.

### **Risk assessment**

**28.**—(1) This regulation applies to every treatment works and supply system from which water is supplied for regulation 4(1) purposes.

(2) Every water undertaker or combined licensee must carry out a risk assessment of each of its treatment works and connected supply system in order to establish whether there is a significant risk of supplying water from those works or supply system that would constitute a potential danger to human health.

(3) Pursuant to paragraph (2), every water undertaker or combined licensee must carry out a risk assessment in respect of—

- (a) each of its treatment works and connected supply systems which—

- (i) is in use on 22 December 2007, and  
(ii) it expects to use after 1 October 2008; and

- (b) any other treatment works and connected supply system, before supplying water from them.

(4) Every water undertaker or combined licensee must keep its risk assessments under review.

(5) The Welsh Ministers may by notice served on a water undertaker or combined licensee, require a risk assessment or review to be carried out by a date specified in the notice.

(6) Where a water undertaker or combined licensee becomes aware of any factors which make it likely that a risk assessment under this regulation would establish that there is a significant risk of supplying water that would constitute a potential danger to human health, it must serve a notice on the Welsh Ministers specifying the relevant factors.

### **Procedure following risk assessment and prohibition of supply**

**29.**—(1) As soon as reasonably practicable after a water undertaker or combined licensee has carried out a risk assessment or review of such assessment under regulation 28, it must submit to the Welsh Ministers a report of the assessment or review.

(2) The report must contain—

- (a) a description of the methods used to carry out the assessment or review;  
(b) where the assessment or review establishes that there is no significant risk of supplying water that would constitute a potential danger to human health, a statement confirming this; and  
(c) where the assessment or review establishes that measures have been taken to remove a significant risk of supplying water that would constitute a potential danger to human health—  
(i) monitoring data which verifies this, and  
(ii) details of those measures.

(3) Where the assessment or review establishes that there is a significant risk of supplying water that would constitute a potential danger to human health, the report must—

- (a) contain a full explanation including details of every property, organism or substance that has been identified as contributing to the risk; and  
(b) specify the measures that the water undertaker or combined licensee—  
(i) has made operational as at the date of the report, and

- (ii) intends to make operational,  
to mitigate the risk.

(4) Where the Welsh Ministers have received a report which states that there is or has been a significant risk of supplying water that would constitute a potential danger to human health, they may, by notice served on the water undertaker or combined licensee, require the water undertaker or combined licensee—

- (a) to maintain such specified measures for such period of time as the Welsh Ministers consider appropriate to mitigate the risk;
- (b) to review, revise or make operational such specified measures by such date as the Welsh Ministers 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 regulation 4(1) purposes from specified treatment works or supply systems, or not to so supply unless specified conditions are satisfied; and
- (e) to give the Welsh Ministers such information as they may require to monitor progress towards mitigation of that risk.

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

(6) The Welsh Ministers may, by notice served on the relevant water undertaker or combined licensee, revoke or amend a notice served under paragraph (4).

### **Contamination from pipes**

**30.**—(1) Where there is a risk (“the prescribed risk”) that water supplied by a relevant supplier would, for the reason mentioned in paragraph (2), after leaving the relevant supplier’s 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,

every water undertaker or combined licensee which introduces water into the supply system used by the relevant supplier must, subject to paragraph (3), treat the water in such a way as will, in its opinion, 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 68(3)(a) of the Act, or its associated fittings.

(3) Paragraph (1) will not require a water undertaker or combined licensee to treat water—

- (a) if the treatment is unlikely to achieve a significant reduction in the concentration of copper or lead; or
- (b) if treatment is not reasonably practicable.

(4) Where at any time in the period beginning with 25th December 2003 and ending immediately before 25th December 2013, a relevant supplier—

- (a) has reason to believe that water supplied by it for regulation 4(1) purposes from a pipe to which paragraph (5) applies contains, at the consumer’s tap, a concentration of lead which exceeds 10 µg/l but does not exceed 25 µg/l; and
- (b) has received from the owner of premises to which water is so supplied notice in writing—
  - (i) of the owner’s intention to replace so much of the pipe as belongs to him; and
  - (ii) of his desire that the relevant supplier replaces the remainder of the pipe,the relevant supplier 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, as to part, to a relevant supplier and, as to the remainder, to the owner of any premises to which the relevant supplier supplies water for regulation 4(1) purposes.

### **Application and introduction of substances and products**

#### **31.—(1) In this regulation—**

“the Directive” means Council Directive [89/106/EEC](#) on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products, as amended from time to time;

“EEA State” means a State which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;

“European technical approval” means a favourable technical assessment of the fitness for use of a construction product for an intended use, issued for the purposes of the Directive by a body authorised by an relevant State to issue European technical approvals for those purposes and notified by that body to the European Commission;

“harmonized standard” means a standard established as mentioned in the Directive by the European standards organisation on the basis of a mandate given by the European Commission and published by the Commission in the Official Journal of the European Communities; and

“relevant State” means a state which is a Member State or any other state which is an EEA State.

(2) Subject to paragraph (3), a water undertaker or combined licensee must not apply any substance or product to, or introduce any substance or product into, water which is to be supplied for regulation 4(1) purposes unless one of the requirements of paragraph (4) is satisfied.

(3) A substance or product which, at the time of its application or introduction, bears an appropriate CE marking in accordance with the Directive, or conforms to—

- (a) an appropriate harmonised standard or European technical approval; or
- (b) an appropriate British Standard or some other national standard of a relevant State which provides an equivalent level of protection and performance,

may be applied or introduced, notwithstanding that none of the requirements of paragraph (4) is satisfied; but any such application or introduction will be subject to—

- (i) such national conditions of use restricting the dosing concentration as are for the time being in force in relation to such substances and products pursuant to a determination of the Welsh Ministers by an instrument in writing; 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 field of technical standards and regulations and of rules on Information Society Services, 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 has also been communicated to the Commission.

(4) The requirements of this paragraph are—

- (a) that the Welsh 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 Welsh 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;
- (c) that the substance or product is to be applied or introduced solely for the purposes of testing or research, and the water undertaker or combined licensee has given to the Welsh Ministers not less than 3 months' notice in writing of its intention so to apply or introduce the substance or product.

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

(6) If the Welsh Ministers decide to issue an approval under paragraph (4)(a), they may include in the approval such conditions as it considers appropriate and, subject to paragraph (10), may at any time revoke or vary any approval it has previously given.

(7) Where substances or products are applied or introduced in any case in which the requirement mentioned in paragraph (4)(c) is satisfied, their application or introduction will be discontinued within 12 months of the date on which they were first applied or introduced or, if the Welsh Ministers by notice given in writing to the water undertaker or combined licensee so directs, within such other period (whether longer or shorter) as may be specified in the notice.

(8) The Welsh Ministers may, by notice given in writing to any water undertaker or combined licensee, prohibit the water undertaker or combined licensee from applying to, or introducing into, water intended to be supplied for regulation 4(1) purposes any substance or product which the water undertaker or combined licensee would otherwise be authorised to apply or introduce by virtue of—

- (a) paragraph (2) and sub-paragraph (b) or (c) of paragraph (4); or
- (b) paragraph (3).

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

(10) The Welsh Ministers may—

- (a) revoke by an instrument in writing any approval given by it under paragraph (4)(a);
- (b) modify any such approval by an instrument in writing by including conditions or varying existing conditions;
- (c) give any such notice as is mentioned in paragraph (8);

but, unless the Welsh Ministers are satisfied that it is necessary to do so in the interests of public health without notice, must not do any of those things without giving all such persons as are, in the opinion of the Welsh Ministers, likely to be affected by the revocation or modification of the approval or by the giving of the notice at least 6 months' notice in writing of its intention.

(11) Notice must be given forthwith by the Welsh Ministers to all persons likely to be affected by the making of such an instrument as is mentioned in paragraph (10)(a) or (b).

(12) At least once in each year beginning with the year 2010, the Welsh Ministers must issue a list of all the substances and products in relation to which—

- (a) an approval under paragraph (4)(a) has been granted or refused;
- (b) such an approval has been revoked or modified;
- (c) a notice has been given under paragraph (8),

with particulars of the action taken.

(13) The Welsh Ministers may—

- (a) by notice served on the person who makes an application for approval under paragraph (4) (a), require the person to pay the Welsh Ministers a charge which reflects the administrative

expenses incurred or likely to be incurred by the Welsh Ministers 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 the Welsh Ministers to be appropriate.

### **Use of processes**

**32.**—(1) The Welsh Ministers may at any time by notice in writing given to a water undertaker or combined licensee require the water undertaker or combined licensee to make an application to it for approval of the use of any process; and may prohibit the water undertaker or combined licensee for such period as may be specified in the notice from using any such process in connection with the supply by the water undertaker or combined licensee of water for regulation 4(1) purposes.

(2) The Welsh Ministers may refuse the application or impose on any approval given for the purposes of this regulation such conditions as they think fit and, subject to paragraph (3), may at any time by notice in writing to the water undertaker or combined licensee revoke an approval so given or modify or revoke any condition imposed by virtue of this paragraph.

(3) Subject to paragraph (4), the Welsh Ministers must not—

- (a) revoke any approval given for the purposes of this regulation;
- (b) modify any condition imposed by virtue of paragraph (2); or
- (c) prohibit a water undertaker or combined licensee from using any process,

unless the Welsh Ministers have given to the water undertaker or combined licensee at least 6 months' notice in writing of the Welsh Ministers' intention to revoke, modify or prohibit, as the case may be.

(4) Paragraph (3) will not apply in any case in which the Welsh Ministers are of the opinion that the immediate revocation, modification or prohibition is necessary in the interests of public health.

(5) Paragraph (12) of regulation 31 will apply for the purposes of this regulation as if—

- (a) for the reference to a substance or product there were substituted a reference to a process; and
- (b) for the reference to paragraph (4)(a) and paragraph (8) there were substituted a reference to this regulation and paragraph (1) of this regulation respectively.

### **Offences**

**33.**—(1) A water undertaker or combined licensee which contravenes regulation 27(1) or (3) or the terms of a notice served under regulation 29(4)(d) will be guilty of an offence and liable—

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

(2) In any proceedings against a water undertaker or combined licensee for an offence under paragraph (1), it will be a defence for that water undertaker or combined licensee to show that it took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

(3) A water undertaker or combined licensee which applies or introduces any substance or product in contravention of regulation 31(2) or a notice given under regulation 31(8), or uses any process in contravention of a prohibition imposed under regulation 32(1) or without complying with a condition imposed by virtue of regulation 32(2) will be guilty of an offence and liable—

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

(4) If any person, in furnishing any information or making any application under regulation 31 or 32, makes any statement which he or she knows to be false in a material particular, or recklessly

makes any statement which is false in a material particular, he or she will be guilty of an offence and liable—

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

(5) Proceedings for an offence under paragraph (4) will not be instituted except by or with the consent of the Welsh Ministers or the Director of Public Prosecutions.