

Information note on Regulation 8



Background

The Private Water Supplies Regulations¹ do not define a private water supply because the definition is set out in the primary legislation (Water Industry Act 1991). Essentially, a private supply is “any supply of water other than a public water supply provided by a water company, a licensed water supplier or the Council of the Isles of Scilly”. However Regulation 8 of the Private Water Supply Regulations creates a special type of private supply where the water originates from a public supply main. This is set out in Regulation 8 as a situation ‘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’. This type of private supply is the subject of this Information Note.

Regulation 8 supplies

The basic principles of a Regulation 8 supply are set out below.

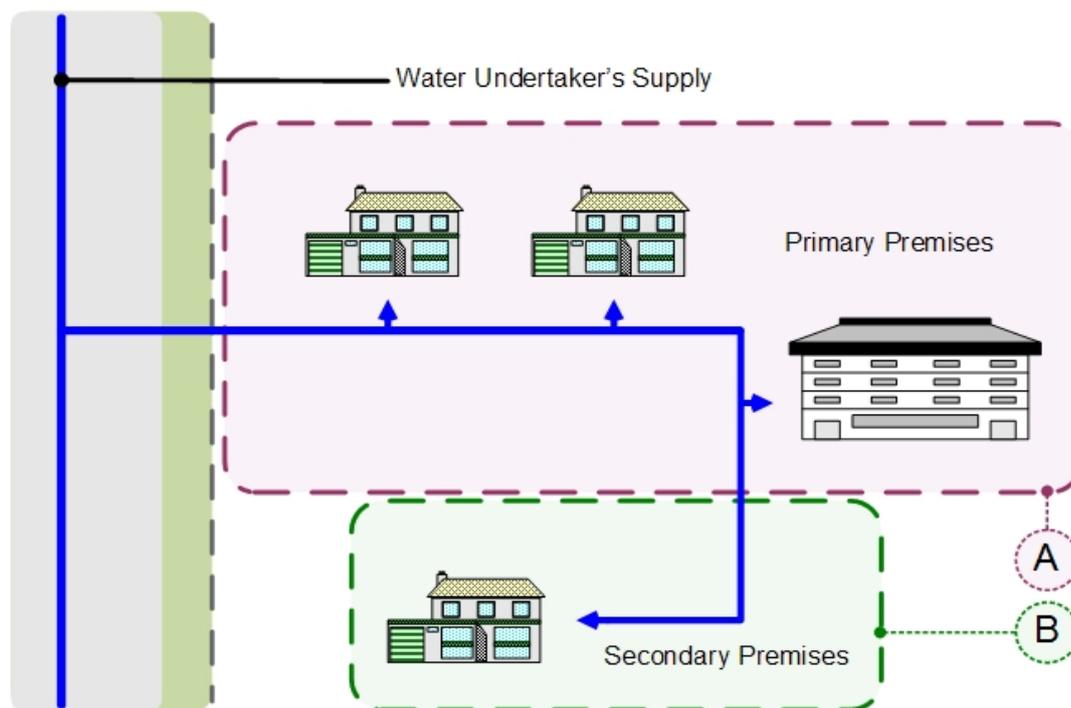
1. The origin of the water supply to the primary premises is a public water supply main and a person or organisation associated with the primary premises² has been confirmed by the water company as a water company customer.
2. The water company customer then further distributes water to other persons for use on other premises² (secondary premises).
3. The owners (or occupiers of subsequently rented out) of the secondary premises² are not customers of the water company.

The diagram below sets out these principles:

¹ The Private Water Supply Regulations 2016 (in England) and the Private Water Supply Regulations 2010 (in Wales).

² land that in freehold ownership, and includes any property on that land which may or may not be rented out.

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Key:

A = boundary of the primary premises (water company customer)

B = boundary of the secondary premises

A regulation 8 supply tends to arise when a parcel of land on an estate (or some other similar large site such as a school, factory or hospital) is sold and the water supply continues to be provided by the estate because the new owner has not arranged for a separate public mains water supply connection. Such arrangements can be intentional but sometimes they will have arisen as an error, omission or misunderstanding arising out of the land sale.

Regulation 8 also makes it clear that this type of private supply, once identified, must be included in the risk assessment and monitoring programme of the local authority, not the water company.

Identification of a Regulation 8 private supply situation

The identification of a Regulation 8 supply is not always straightforward and will need to be considered on a case by case basis. It will always require dialogue between the local authority and the appropriate water company staff.

As a general principle, whenever the supply to a premise² originates from the public supply main, there should be a presumption by the local authority that the supply is a

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public water supply until proven otherwise. For this reason, the only action required initially by the local authority is to record the address of any situation where on the basis of local knowledge they consider there could be a potential Regulation 8 situation and to then forward this information to the local water company for checking against its customer billing records.

A situation which is **not** a Regulation 8 supply is one where several premises² are supplied with mains water by means of a single supply pipe that is jointly the responsibility of the owners of all the premises. This is a public water supply situation known as a common supply pipe.

Another situation which is **not** a Regulation 8 supply is where someone rents a property, mobile home or caravan from a premises² owner and the premises owner or the tenant of the property on it is a water company customer.

A single large premises (such as a business park, shopping centre, university, office block, or block of flats) comprised of either several buildings or several units all located inside one building, can appear on the water company billing database as either a single customer (premises owner or managing agent of the whole site) or as a series of individual customers (occupiers of different buildings/units). These premises are unlikely to constitute a Regulation 8 supply.

The following examples are also unlikely to be a Regulation 8 supply situation:

- caravan sites where there is a single owner of the overall site
- small industrial parks where there are several different businesses occupying individual units on one premises.
- A hotel premises with outbuildings and/or a marquee used for temporary events, such as weddings, conferences or meetings.
- Airports and ports where there is a single owner of the whole site.
- University, college or school where there is a single owner of the whole site.
- Rural estate where all the buildings and homes are in the ownership or management of the estate.

However, it should be noted that in relation to any of the above examples, a Regulation 8 situation might exist or could arise as a consequence of the sale of a parcel of land or building (but not the whole premises). The exact situation can only be determined case by case.

In all of these situations, the water company will be responsible for monitoring and enforcing the Water Fittings Regulations 1999.

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The short term provision of water for a temporary event using tankers, bowzers, mobile or static tanks should not be regarded automatically as a regulation 8 situation. However, local authorities should take steps to ensure the supply arrangements comply with the Code of Practice BS 8551:2011 - Provision and Management of Temporary Water Supplies and Distribution Networks (not including provisions for statutory emergencies).

Summary of powers available for improving Regulation 8 supplies

- Local authority Notice under regulation 18 of the Private Water Supplies Regulations or a Notice under Section 80 of the Water Industry Act 1991 based on a Regulation 6 risk assessment.
- Water company Notice for contraventions of the Water Fittings Regulations 1999.
- The type of Notice will depend on the exact circumstances which in turn will inform on whom the Notice is served and the nature of the required remedial work to be specified. Sometimes more than one type of Notice may be required. Likewise there may be more than one 'relevant person'. The advice of the Inspectorate should be sought prior to serving notices in situations that are not straightforward.

Useful Definitions

1. A licensed undertaker is a company, organisation or person who is a licensed water supplier as defined under Section 17A of the WIA 1991 (and formally recognised as such by Ofwat, the economic regulator). In this Information Note and other guidance, the term water company is used to cover all types of licensed public water suppliers.
2. The definition of premises is "land and any buildings on it".
3. A public water supply to a premise is delivered through a water main and a service pipe. The part of the service pipe owned by the water company is known as the communication pipe; the remainder of the service pipe, which is known as the supply pipe, belongs to the premises owner(s). A service pipe is defined as that part of any pipe supplying water from a main to a premises as is subject to water pressure from that main (or would be so subject but for the closing of some valve). These definitions come from the Water Fittings Regulations 1999. The term "private distribution main/pipe" whilst in common use is not a recognised term but when used, is likely to mean a supply pipe as defined above.
4. Contractors laying water mains and service pipes may be working on behalf of either a water company, or a developer or a premises owner. Any such contractor should be a water company Approved Contractor.