

# Information note on Regulation 13



## **Requirement to risk assess and monitor a new supply or a reinstated existing supply**

As soon as a local authority becomes aware, by any means, of any new private water supply in its area, it must make contact with the relevant person requesting the new supply or reinstatement to determine whether the supply is to be used for domestic purposes. If this is the case, the local authority should update its records to include details of the supply. Thereafter the requirements of regulations 6-12 and 14-16 apply, i.e. for all supplies other than a supply to a single dwelling not provided as part of a commercial or public activity, it must inform them in a timely manner that the supply cannot be put into use until the local authority has completed a Regulation 6 risk assessment and monitoring in accordance with either Regulation 8, 9 or 10 as appropriate.

The person commissioning the supply should also be made aware that potential risks to human health identified by that risk assessment and/or monitoring will need to be mitigated by appropriate remediation before the supply can be put into use. A Regulation 18 Notice confirming the restriction of use of the supply, and any relevant remedial action required to mitigate the risk, must be served. If the supply is not, or is likely not to be, wholesome or sufficient a Section 80 Notice must be served on the relevant person commissioning the supply after the supply has been brought into use.

The above actions must also be taken whenever a local authority becomes aware, by any means, that an existing supply historically used only for non-domestic purposes (e.g. irrigation, horticulture, garden watering, vehicle washing, livestock welfare etc.) is being used, or is likely to be used in the near future, for domestic purposes (e.g. drinking, cooking, food preparation, food production, personal washing or laundry). A risk assessment must be carried out and the assessor should use the latest version of the DWI risk assessment tool at <http://www.dwi.gov.uk/> and monitoring carried out according to the type of supply.

The other circumstances that require action by the local authority under Regulation 13 concern the reinstatement of an abandoned or disused supply. To comply with this Regulation, local authorities should inform the relevant persons of each supply on its records that they must notify the local authority if the supply ceases to be used for domestic purposes. On receipt of such a notification, or when becoming aware by any other means, the local authority must advise the relevant persons that if the supply is kept out of use for a period of 12 months or longer, then it cannot be brought back into use again for domestic purposes until such time as the local authority has determined by an updated risk assessment and monitoring that the supply does not pose a potential danger to human health.

Local authority staff dealing with planning applications (and any persons working for other planning authorities e.g. National Parks) should have procedures in place to

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identify premises served by private water supplies. The purpose of these procedures is to ensure that no planning application is granted for any premises that is to obtain a supply of water for domestic purposes from a new or reinstated private supply before the relevant local authority staff with responsibility for private water supplies have risk assessed and monitored it in accordance with the private supply regulations. The supply must not present a potential risk to human health and all necessary details should be documented on the local authority private supply record. Local authorities can take the opportunity at this stage to ensure that appropriate legally-binding agreements have been signed up to by all relevant persons (as defined in Section 80 of the Water Industry Act 1991). These documents should lay out the responsibilities of each relevant person in respect of maintenance and management of the supply, access rights, apportionment of costs and charges (including those for sampling and risk assessment), emergency plans including alternative supplies, etc.

## **New supplies to Single domestic dwellings (SDD)**

In the case of all supplies to SDDs, under regulation 10(3), a local authority *may* monitor the supply as part of this regulation and *must* do so if requested to do so by the owner or occupier. Regulation 6(3) also requires that a local authority must carry out a risk assessment only if requested to do so by the owner or occupier of that dwelling.

However, regulation 13(2) states that “*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 risk to human health.*” Therefore where a local authority becomes aware of a new supply to a SDD it is advised to make contact with the relevant persons to undertake some preliminary enquiries to ascertain whether or not the new supply is likely to present a risk of unwholesome water or a potential risk to human health. Where it suspects that this is the case, Regulation 16(1) requires that a local authority must carry out an investigation to determine the cause and that it must act in accordance with Regulation 16(3) and (4).

## **Timescales for acting under Regulation 13**

Since new supplies cannot be used until the local authority is satisfied by means of risk assessment and monitoring that the supply is not a risk to human health, local authorities must ensure that these activities are carried out promptly. No timescale for completion has been set in the Regulation beyond that the time taken must be “*as soon as is reasonably practicable*”. Local authorities should be aware therefore of the need to set and publish a target that informs owners and managers of supplies of the likely timescale. It should be made clear in advance of the person(s) commissioning the new supply or reinstatement that they may be required to take action to address any deficiencies identified by the local authority before the supply is brought into use.

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If the relevant person chooses to put a new supply into use before the local authority is satisfied there is no potential danger to human health, then the local authority must serve a Notice under Regulation 18 to restrict the use of the supply until such time that the local authority is satisfied that appropriate mitigation measures, as stated in the Notice, are in place, citing the reason in the Notice as non-compliance with Regulation 13(2).

## **Which supplies are covered by this regulation?**

Regulation 13 applies to Regulation 8, Regulation 9 and Regulation 10 supplies (other than single domestic dwellings which are not provided as part of a commercial or public activity).