

Information note on Regulation 3



Scope

Regulation 3 of the Private Water Supplies (England) Regulations 2016, as amended, specifies the scope of the Regulations in relation to private water supplies by defining “water intended for human consumption”. The Regulations apply to private water supplies ONLY where the water is intended for human consumption, and this is defined elsewhere in this note.

A private water supply (PWS) is defined in Regulation 2, and is described as being “any supply of water that is not provided by a statutory water undertaker (including the Council of the Isles of Scilly) or a licensed water supplier [water companies]” in Section 93 of the Water Industry Act 1991.

The Regulations specify 3 private supply categories, as follows, each denoted by its respective regulation (see relevant information note for each regulation):

- Further distribution of supplies from water undertakers or licensed suppliers (Regulation 8 supplies);
- Large supplies (>10m³/day) and supplies to premises where it is used as part of a commercial or public activity (Regulation 9 supplies);
- Other private supplies (including those to a single domestic dwelling) (Regulation 10 supplies).

Although Regulation 8 supplies originate from a public supply, by definition, consumers of these supplies are not on water companies’ billing records as customers and therefore water is not being provided by a statutory water undertaker directly to the user. Further guidance on what constitutes a Regulation 8 supply can be obtained from the Inspectorate’s Information Note on Regulation 8.

The Regulations apply to private water supplies ONLY where the water is intended for human consumption. Regulation 3 defines water intended for human consumption as:

- a) all water 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 a distribution network, from a tanker, or in bottles or containers.
- b) All water used in any food-production undertaking for the manufacture, processing, preservation or marketing of products or substances intended for human consumption unless the competent authority (in this case the FSA) are is satisfied that the quality of water cannot affect the wholesomeness of the foodstuff in its finished form.

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*The term 'domestic purposes' in relation to a supply of water to premises is defined in section 218 of the Water Industry Act 1991 as drinking, washing, cooking, central heating and sanitary purposes. 'Sanitary purposes' includes washing/bathing/showering, laundry and toilet flushing. The Inspectorate has made available on its website a risk assessment tool for supplies that are used exclusively for the purposes of toilet flushing.

The FSA states that clean water may be used in primary food production. Clean water is defined as "clean seawater and fresh water of a similar quality" and clean seawater is defined as "natural, artificial or purified seawater or brackish water that does not contain micro-organisms, harmful substances or toxic marine plankton in quantities capable of directly or indirectly affecting the health quality of food." Some degree of risk assessment and/or monitoring is necessary to satisfy the regulator that clean water is clean.

Even if water is used for anything other than primary food production then it must satisfy PWS Regulations. Examples of where the PWS Regulations apply are given below (this list is illustrative and is not exhaustive):

- The washing and bagging of crops/foodstuffs (particularly the washing of ready to eat items such as salad crops (e.g. lettuce, watercress and spring onions),
- Fruit (such as eating apples, pears and plums) and vegetables that may be eaten raw.
- Washing of fruit and vegetables intended for peeling and slicing;
- Incorporation into food as an ingredient (including drinks or water used in a brewery – see 'Malting and brewing' below for further information);
- Cleaning of food production equipment, utensils, walls, floor, ceilings and work surfaces;
- Production of ice;
- Hand washing of food handlers.
- Cleaning purposes (food contact surfaces, equipment, storage containers, utensils, hands)

Local authorities may wish to consult with the Food Standards Agency (FSA) if further advice is needed on the quality of water used for food production.

Milking parlours

The Food Standards Agency has powers and responsibilities for milking parlours and dairy farms under existing food law. Private supplies that are used solely for washing down purposes are not within the scope of the PWS Regulations. If however the milking parlour premises comprise a single domestic dwelling, where the water is used for domestic purposes, the single domestic dwelling is subject to Regulation 10 (3) of the Regulations. Where there is more than one dwelling on the premises, Regulation 10(1) and (2) or Regulation 9 must be applied as appropriate, subject to the conditions specified in those Regulations.

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Distilleries

Where water from private water supplies is used in the manufacturing of products that employ a distillation process (for example, whisky, gin and other spirits), the Regulations apply only where the water is added after the distillation part of the process, because the distillation process ensures that only certain compounds are present in the distillate.

Malting and brewing

Malt is made by a process known as steeping and is a product used in brewing and the manufacture of other products, such as vinegar. The process of making malt allows water to be absorbed by barley and the product becomes an ingredient in the final product. Therefore water derived from private water supplies to make malt by this process falls within the scope of Regulation 3(1)(b) of the Regulations.

Water derived from private water supplies that are used specifically for brewing beer where the water is a constituent of the end product, fall within the scope of Regulation 3(1)(b).

Rainwater harvesting and grey water systems

All supplies that are derived from rainwater and recycled (grey) water fall within the scope of the Regulations, where the water is supplied for domestic purposes, as defined in the Water Industry Act 1991.

Where such supplies are not used in the context of human consumption as described in 3(a) and 3(b) of the Regulations, this must be recorded.

Water fountains and other publicly accessible supplies

Where a supply of drinking water derived from a private supply that is offered for human consumption to the general public/tourists as part of a heritage attraction (e.g. ancient springs and grottos), regulation 9 applies. Where it is not intended for human consumption, suitable signage should be appended to the feature by the relevant person to deter public consumption of the water.

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Alternative supplies

In an emergency (for example when there is a quality failure or a problem with the source or a failure of treatment or a potential danger to human health, it may be necessary to temporarily supply water from tankers or in bottles or other containers such as cartons (see Technical Note on Managing sufficiency of private water supplies in emergency and non emergency situations).

<http://www.dwi.gov.uk/stakeholders/guidance-and-codes-of-practice/pws-alt-supplies.pdf>

The water in the tankers must also meet the requirements of the Regulations. If water in bottles or containers is supplied instead of a private supply (due to insufficiency) and that water is not offered for sale (these are controlled by the 2007 Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations) then it is controlled by The Private Water Supplies (England) (Amendment) Regulations 2016 (as amended).

Rented accommodation

All premises served by a private water supply for domestic purposes and where the water is used as part of a commercial or public activity fall within the scope of the Regulations. However, the risk assessment and monitoring requirements of a supply differ according to its supply type, i.e. whether it falls within the scope of Regulation 8, 9 or 10. Accommodation that is rented out or let may, under some circumstances fall within the conditions specified in Regulation 9 (b). For further detail, see Information note for Regulation 9.

Temporary events

Where temporary events (festivals, local fairs etc.) are supplied by sources such as boreholes and/or springs for domestic purposes, The Private Water Supplies Regulations 2016 (as amended) apply. Water that is consumed for domestic purposes at a temporary event that is derived from a public water supply – either directly through pipes or via tankers is not within the scope of the Regulations unless it is a Regulation 8 supply.

Exemptions

The following waters are exempt from the Regulations – that is they are not controlled by The Private Water Supplies Regulations 2016 (as amended):

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- a) water controlled by the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007 (as amended) (b); or the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2007 (as amended);
- b) water that is a medicinal product; or

All types of commercially produced bottled water that are for sale are excluded from the Regulations because the quality of these waters is controlled by the above 2007 Regulations. However, where water in bottles or containers is supplied instead of a private supply (for example where a supply is insufficient and an alternative supply is provided), that water is not controlled by the 2007 Regulations because it has not been for sale or sold. Instead, it is controlled by Private Water Supplies (England) Regulations 2016, as amended. If a private water supply is used at a bottling plant to fill bottles and is also used to supply other premises, the bottled water is covered by the 2007 Regulations (as above) and the supply to the other premises is covered by Private Water Supplies (England) Regulations 2016, as amended. Water that is a medicinal product is water that is regulated by the Medicines Act 1968⁽¹⁾.

¹ S. I. 1968, c. 67.