

Regulation 17 - Authorisation of different standards



This information note provides local authorities with an important update about limitations on the use of the power in the regulations to grant authorisations of different standards. Local authorities are advised to take this information into account when dealing with any new application for an authorisation.

Background

Regulation 17 of the Private Water Supplies Regulations¹ states that any [relevant] person may apply to a local authority for the grant of an authorisation or **authorised departure** to supply water from a private water supply to a lower standard on a temporary basis while remedial action is taken. Regulation 17 further sets out the specific conditions in which a local authority can grant an authorisation. However, following a recent European Commission (EC) opinion, it may be necessary to limit or modify how the power to grant authorised departures is exercised in the future.

The EC Drinking Water Directive (DWD)² refers to an authorised departure as a **derogation**. The intent of a derogation at the time of the introduction of the DWD (25 December 2003) was to allow an initial period of time for countries in the European Union to improve the quality of all their drinking water supplies. The EC has recently indicated that it considers that the power to grant derogations has time expired. However, the EC has recognised that there could be exceptional circumstances where in very specific cases derogations could be granted. The EC is reviewing this matter and there will be a further report to member states in November 2013.

Interim Guidance for local authorities on dealing with new applications for an authorised departures

Local authorities are strongly advised not to grant any new authorised departures without first consulting the Inspectorate as they are likely to have no basis in law.

Where a supply is deemed unwholesome, local authorities should consider other remedies as set out in out in regulation 16(1)(3). For example, the local authority should consider serving a notice under section 80 of the Water Industry Act 1991 or, where there is a risk to human health, a notice under regulation 18.

For existing authorised departures that have not time-expired, local authorities are advised to review the circumstances associated with the particular supply and consider replacing these with a notice.

¹ The Private Water Supply Regulations 2009 (in England) and the Private Water Supply Regulations 2010 (in Wales).

² Council Directive 98/83/EC on the quality of water intended for human consumption