



DRINKING WATER INSPECTORATE

Area 7E, 9 Millbank
c/o Nobel House
17 Smith Square
London SW1P 3JR

Enquiries: 0300 068 6400

E-mail: Marcus.rink@defra.gsi.gov.uk

DWI Website: <http://www.dwi.gov.uk>

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Information Letter 04/2016

To: Board Level and Day to Day contacts of Water and Sewerage Companies and Water Companies in England and Wales

Dear Sir/Madam

NEW DRINKING WATER QUALITY LEGISLATION (2016)

1. Purpose

This letter is to inform stakeholders of the publication of four new statutory instruments relating to the regulation of public and private water supplies in England and Wales that come into force during 2016. The information below summarises the key aspects of this new legislation and the forward process for the update of the Inspectorate's guidance documents.

2. Background

Four new Statutory Instruments have been made. These are:

- The Water Supply (Water Quality) Regulations 2016 – SI No. 614 coming into force on 27 June 2016
- The Water Supply (Water Quality) (Amendment) Regulations 2016 for Wales – SI No. 410 (W. 128) came into force 14 April 2016
- The Private Water Supplies (England) Regulations 2016 – SI No. 618 – coming into force on 27 June 2016
- The Private Water Supplies (Wales) (Amendment) Regulations 2016 – SI No. 411 (W. 129) - came into force 14 April 2016

The key aspects of these Regulations are described below. Copies of the full Statutory Instruments are available on the Inspectorate's website www.dwi.gov.uk or from www.legislation.gov.uk and using the following links.

- [The Water Supply \(Water Quality\) Regulations 2016](#)
- [The Water Supply \(Water Quality\) \(Amendment\) Regulations 2016](#)
- [The Private Water Supplies \(England\) Regulations 2016](#)
- [The Private Water Supplies \(Wales\) \(Amendment\) Regulations 2016](#)

3. Changes in The Water Supply (Water Quality) Regulations 2016 (the 2016 Regulations)

The 2016 Regulations replace the previous Water Supply (Water Quality) Regulations 2000, and consolidate the amendments introduced by the 2001, 2007 and 2010 amendment Regulations.

3.1 Transposition of the Council Directive 2013/51/EURATOM (the Euratom Directive)

The 2016 Regulations introduce new requirements for water companies and water suppliers to monitor for radioactive substances as required by Article 6 and Annex II of the Euratom Directive. These mainly focus on radon, which now has a parametric drinking water quality limit of 100Bq/l and monitoring requirements, but also cover Indicative Dose (ID) and tritium.

3.2 New requirements

Regulation 15(5): New sources

Under the 2000 Regulations, when a water supplier wanted to bring a new source of water into use they were required to submit a risk assessment to the Secretary of State, and then wait a period of three months before they could use the supply. The amendment reduces the waiting time from three months to one month.

Regulation 34(1): Records and information

Regulation 34(1)(g) and Regulation 34(1)(h) have been amended to ensure that electronic records and records of customer contacts are kept for the same length of time as other records. This will ensure that water companies retain necessary online monitoring data and details of consumers' contacts about drinking water quality, that are collected over time.

3.3 Amendments to improve clarity

A number of other amendments have been made that improve the clarity of the Regulations.

Regulation 4(6): Transfer of water from service reservoirs

The wording of Regulation 4(6) has been amended to clarify that water leaving a service reservoir will be regarded as unwholesome if more than 5%

of samples in a calendar year, exceed the relevant parametric value for the coliform bacteria parameter.

Regulations 27 and 28: Risk assessment

Regulations 27 and 28 have been amended to ensure that the risk assessments also cover the likelihood that water becomes unwholesome, as well as a potential risk to human health.

Regulations 29 and 30: Contamination of pipes and replacement of lead pipes

Regulation 30 of the 2000 Regulations has been split into Regulation 29 and Regulation 30. Regulation 29 covers the existing requirements for treatment of water to minimise leaching from pipes, mainly for lead. Regulation 30 incorporates the existing requirements on suppliers to replace lead pipes and also reflects the new lead standard that came into force on 25 December 2013.

3.4 Changes to numbering

There have been changes to numbering of the current regulations that should be noted but are not significant in terms of major regulatory activities. These are:

- Regulation 16A (drinking water abstraction points: monitoring sites) now becomes Regulation 17
- Regulation 18 becomes 19
- Regulation 19 becomes 20
- Regulation 19A becomes 21
- Authorisations are now covered by Regulation 22 to 25

4. Changes in The Private Water Supplies (England) Regulations 2016 (the 2016 Private Supplies Regulations)

4.1 Transposition of the Council Directive 2013/51/EURATOM

The 2016 Private Supplies Regulations introduce new requirements for local authorities to risk assess radioactive substances in private water supplies as required by Article 6 and Annex II of the Euratom Directive, and monitor if necessary. These mainly focus on radon, but also cover Indicative Dose (ID) and tritium.

4.2 Clarifications relating to the Drinking Water Directive (DWD) transposition

Regulation 3(1)(b)

In the 2009 Regulations, there is a specific exemption for water used for crop washing where the water does not affect the fitness for human consumption of the crop or of any food or drink derived from the crop (Regulation 3(c) of the

2009 Regulations). In Regulation 3(1)(b) of the 2016 Private Supplies Regulations, this exemption has been widened so that private supplies of water used in any food production will be excluded from the scope of the Regulations where the competent authority is satisfied that the water cannot affect wholesomeness of foodstuff in its finished form.

Regulations 6, 9 and 10

Regulations 6, 9 and 10 have been amended to clarify that the DWD applies to 'water supplied as part of a commercial or public activity'. The wording of Regulations 6, 9 and 10 is consistent with the wording in the DWD.

Water supplies that fall within the scope of these regulations include, for example, supplies made to hotels and B&Bs, holiday lets, caravan sites, premises serving refreshments and specific commercial rentals where the landlord retains responsibility for the water supply. Agricultural tenancies and properties provided as part of a job are excluded.

New requirements

New Regulation 13: New Supplies

The new Regulation requires local authorities to carry out a risk assessment and monitor any new private water supply or any supply not used for a period of 12 months, of which it becomes aware, as soon as is reasonably practicable. Such a supply must not be brought into use until the local authority is satisfied that it does not constitute risk to health.

Amendments to improve clarity

A number of other amendments have been made that improve the clarity of the Regulations. These changes should not have a significant impact as the aim is to better align the wording with government's current policy aims.

Regulation 5(1): Use of products or substances in private supplies

The reference to Regulation 31 of Water Supply (Water Quality) Regulations 2000 has been removed. This is now a freestanding provision which sets out the requirements as regards products and substances used in the preparation or distribution of private water supplies.

Regulation 16: Procedure following investigation

Amendments for the procedure following investigation are as follows:

- Regulations 16(3) and 16(4)

The Regulations have been reworded to clarify actions that local authorities should take where the cause of a water supply becoming unwholesome is due to the distribution system within a domestic premises, and where the cause is

due to the distribution system within a building where the water supply is made available to members of the public (known generically as public buildings).

For domestic premises, local authorities should inform occupants of the problem and offer advice. They cannot compel replacement or other remedial actions of internal pipes and fittings.

For public buildings, the local authority must ensure that appropriate remedial action is taken, as well as inform occupants and provide advice.

The wording in the 2009 Regulations has caused confusion. The wording has therefore been changed from 'pipework in a single dwelling' to 'distribution system within a domestic premises' to avoid confusion with other aspects of the Regulations where reference is made to 'single domestic dwelling'.

- Regulation 16 (5)

Regulation 16 (5) ensures that action is taken when the cause of the water supply being unwholesome or insufficient is not due to the distribution system within a domestic premises. Under this Regulation, the relevant person has 28 days to remediate the situation before the local authority serves a notice in accordance with section 80 of the Water Industry Act 1991 if the water is unwholesome or insufficient. If the water is a potential danger to health, the local authority must still serve notice under Regulation 18 of the 2016 Private Supplies Regulations if the conditions in that regulation are fulfilled.

5. Changes in The Water Supply (Water Quality) (Amendment) Regulations 2016 for Wales (the 2016 Regulations Wales)

5.1 Transposition of the Council Directive 2013/51/EURATOM

The 2016 Regulations Wales, introduce new requirements for water companies and water suppliers whose areas are wholly or mainly in Wales, to monitor for radioactive substances as required by Article 6 and Annex II of the Euratom Directive. These mainly focus on monitoring for radon, but also cover Indicative Dose (ID) and tritium.

6. Changes in The Private Water Supplies (Wales) (Amendment) Regulations 2016 (the 2016 Private Supplies Regulations Wales)

6.1 Transposition of the Council Directive 2013/51/EURATOM

The 2016 Private Supplies Regulations Wales introduce new requirements for local authorities to risk assess radioactive substances in private water supplies as required by Article 6 and Annex II of the Euratom Directive, and monitor if necessary. These mainly focus on monitoring for radon, but also cover indicative dose (ID) and tritium.

7. Guidance on the amended legislation

7.1 Consultation on the Guidance to the 2016 Regulations and the 2016 Regulations Wales

The Inspectorate wrote to companies on 21 April 2016 seeking views on draft guidance for the above instruments. A meeting to launch the consultation was held at Water UK's offices on 25 April 2016.

The consultation closed on 3 June 2016, and the Inspectorate will report on the outcomes in due course after which the Guidance will be published on our website.

7.2 The 2016 Private Regulations (England and Wales)

Guidance will be published on the Inspectorate's website in the form of information notes on each of the regulations. These notes will be kept under continuous review and as new, relevant information becomes available, they will be updated and stakeholders notified.

Copies of this letter are being sent to Michael Roberts, Chief Executive, Water UK; Catherine Harrold, Water Resources Management, Efficiency, Innovation, Drainage & Sewers, Department for Environment, Food and Rural Affairs; Eifiona Williams, Water Management Team, Welsh Government; Sue Petch, Drinking Water Quality Regulator for Scotland; David O'Neill, Drinking Water Inspectorate for Northern Ireland; Tony Smith and Chairs of the Regional Consumer Council for Water; Nicci Russell, Ofwat; Paul Hickey, Environment Agency; Liz Stretton, Food Standards Agency; and Stephen Robjohns at Public Health England.

This letter is being sent electronically to Board Level and day to day contacts. Please acknowledge receipt by email to dwi.enquiries@defra.gsi.gov.uk. Hard copies are not being sent but the letter may be freely copied. Any enquiries about the letter should be addressed directly to dwi.enquiries@defra.gsi.gov.uk.

Yours faithfully



Marcus Rink
Chief Inspector of Drinking Water