

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

What does Regulation 5(1) mean?

There are potentially many products and substances which may come into contact with water from the point of abstraction to the point of consumption – for example the surfaces of pipes, tanks, treatment chemicals or filter media, point of use devices and other types of water fittings such as components of meters, pumps, and valves. The purpose of this regulation is to prevent the use of products or substances known to have a detrimental effect on the safety or quality of drinking water.

How does this work in practice?

The regulation applies to usage of products and substances after 1 January 2010 (i.e. it is not retrospective) (or 26 May 2010 in Wales). Any new usage of a product or substance in a private supply is covered by Regulation 5(1). This means that there must be documentation in place to demonstrate that prior to use checks were undertaken to ensure that the product or substance was permitted for use under Regulation 31 of the Water Supply (Water Quality) Regulations 2000 or equivalent Regulations in Wales.

What do local authorities need to know about products/substances to check if they comply with Regulation 5(1)?

Local authorities should be satisfied that the products and substances in use in a private supply are documented as part of any risk assessment, any investigation or any improvement works. Products or substances meeting one (or more) of the following criteria may be considered as complying with regulation 5(1):

1. Listed in the Secretary of State's **list of approved products for use in Public Water Supply in the United Kingdom** (current version is available on the [DWI website](#));
2. Listed in the **Water Regulations Advisory Service (WRAS) Water Fittings and Materials Directory** (available on the WRAS website: www.wras.co.uk) as suitable for use in plumbing systems within buildings;
3. The particular usage of the product/substance results in either a minimal surface area exposure or a transient contact time with water and testing using BS6920 methodology has shown that the product/substance does not give rise to an objectionable taste or odour and does not encourage microbial growth.

¹ The equivalent in Wales is Regulation 4(a) in The Private Water Supplies (Wales) (Amendment) (No.2) Regulations 2010

4. **Treatment chemicals conforming to a BS:EN standard** and dosed in accordance with any national conditions of use (Current BS:EN standards and conditions of use are shown in the Secretary of State's List of approved products for use in Public Water Supply in the United Kingdom).
5. Included in the **Transitional List of traditional products and substances for use in Private Water Supplies**. To be included by DWI on this list the supplier or operator or local authority will have provided evidence of usage in at least three different private supplies for at least 12 months prior to the Regulations coming in to force 1 January 2011. The transitional list will be maintained on the private water supplies section of the drinking water products page on the [DWI website](#).

Anyone wishing to have a product or substance added to the transitional list should provide DWI with a description of the product or substance and its conditions of use, together with 3 or more letters from private supply operators where the product or substance has been used without affecting the quality or safety of the water supply.

If during a risk assessment or during any duties related to the Regulations a local authority becomes aware of a product or substance that meets this "traditional use" criteria but it is not yet on the transitional list, then they may forward details to the Inspectorate and request its addition to the transitional List. The DWI will ask the manufacturers to supply any additional information necessary.

If a Local Authority becomes aware of a new product or one which has been in use for either less than 12 months or in fewer than 3 private supplies, then the product/substance must conform to at least one of the other criteria (1 to 4 above).

If the Inspectorate becomes aware that a product or substance on the transitional list has adversely affected water quality or safety then the product or substance will be removed from the List. Where a product or substance is being investigated by DWI for adversely affecting the quality or safety of a supply, this will be shown on the list as 'under review'. DWI recommends that a new usage of such a product or substance be avoided until the review is complete and the product/substance either approved or rejected as unsuitable.

The transitional list will be maintained for 10 years until 31 December 2021. Thereafter suppliers/manufacturers will have arranged for their product or substance to be tested to gain approval under regulation 31(4)(a) of the Water Supply (Water Quality) Regulations 2000 (or equivalent in Wales) (and therefore subsequently included in the Secretary of State's List), or determined that their product or substance may be used under one or more of the other provisions of Regulation 31.

What action should a local authority take if it finds that a product or substance may be affecting the quality or safety of the water supply?

The immediate action to be taken is to advise the operator that the use of the product or substance is in breach of the regulations and steps need to be taken to install or use an alternative. Such a breach of Regulation 5 is sufficiently serious that either the supply is a potential danger to human health or is unwholesome and would require the appropriate notice. However a local authority does have the ability to provide advice and negotiate an agreeable timescale for all parties to secure improvements. The local authority can always apply their standard enforcement policy, reserve proceedings for those circumstances where no other means will induce the appropriate safe behaviour of the operator.

For further information please contact the DWI at dwi.enquiries@defra.gov.gsi.uk.