

The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017

The abovementioned [Regulations](#) came into effect on 27 October 2017. The following information outlines changes that will affect members.

Application of Regulation

The Regulations apply to any private supply which supplies 50 or more persons or more than 10m³ per day; any supply which forms part of a commercial or public activity (which will now include *any* domestic rented premises), or where water is used in a commercial or public activity or where the water is supplied to the public. Any water supplied by tanker, container or in bottles as an alternative to a supply that these Regulations apply to must comply with these Regulations. This includes containers or tankers filled from a private supply which are being used at festivals or events.

Commercial or public activity should be regarded as including all food production undertakings (unless the quality of the final product is not affected by the quality of the water), caravan sites, campsites, hotel and bed and breakfast establishments, holiday let accommodation, domestic rented premises (including those listed on the landlord register and from registered social landlords), church or village halls, hospitals. The definition of a supply which forms part of a public activity includes those supplies which are provided by public bodies including local authorities. Scottish Public Bodies are listed on the Scottish Government's website.

As with other commercial or public activity, it will be the supply rather than each individual property that is tested in the case of domestically rented property – however, each property must have a point of compliance (such as a tap).

The Regulations as outlined below DO NOT apply to water supplied from the Scottish Water public supply; supplied by tanker, container or bottles by Scottish Water; or supplied with the help of services provided by Scottish Water including a facility for someone to have access to a supply of water provided directly or indirectly by Scottish Water. The Regulations also do not apply to:

- Water intended for sale in bottles or containers – these fall under food legislation
- Water which is a medicinal product
- Water used for crop washing where the quality of water has no impact directly or indirectly on the health of someone consuming either the crop itself or food and drink manufactured from it
- Water used in the distillation of spirits which is used in the mashing process and for washing plant.

Relevant Person

The Regulations require local authorities to determine the relevant person(s) for each supply. The Relevant Person is someone who:

- A. In relation to a supply of water in pipes to premises, a person who-
 - (a) Owns any part of the private water supply system; or
 - (b) Owns or occupies –
 - (i) the premises;
 - (ii) the land from which any part of the water is abstracted; or
 - (iii) land in, on or over which any part of the private water supply system is installed;
 - (c) exercises powers of management or control in relation to –
 - (i) the premises;

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- (ii) the land from which any part of the water is abstracted; or
- (iii) land in, on or over which any part of the private water supply system is installed;
- (iv) a body of water or other source from which any part of the water is abstracted;
- (v) the supply of water in pipes; or
- (vi) the private water supply system; or
- (d) is a water supplier
- B. in relation to a supply of water from a tanker, a person who supplies the water from the tanker or exercises powers of management or control in relation to the supply of water from the tanker; and
- C. in relation to a supply of water in bottles or containers, a person who puts the water into the bottles or containers or exercises powers of management or control in relation to the supply of water in bottles or containers.

Where a person has been determined a relevant person by the local authority, and they disagree with it, that person has a right of appeal against the decision. The appeal must be lodged within 21 days from the date of notification of the determination. While the appeal is pending, any actions which may be required to be undertaken by the relevant person are not enforceable under the Water Scotland Act 1980.

Water supply zones

There will be 56 Water Supply Zones designated by DWQRS. Each supply within a zone must come from one or more sources where the water quality may be considered as approximately uniform. The supply zones will not cross enforcing boundaries and will be based on river basins and aquifer catchments. A large complex private water supply which may blend surface and groundwater may be designated as one water supply zone, as is a supply which has a complex treatment.

Each private supply system must still be monitored at least annually for a reduced number of parameters. One or more of these supplies will also be tested for the full range of parameters as part of the same sampling visit.

Once sufficient data is available (minimum of 3 years) then DWQRS will be able to review the data and work with enforcing authorities to assess the potential for reducing the monitoring requirements within the supply zones.

Register of supply systems etc.

This Regulation introduces a duty on the part of any person to notify the enforcing authority of information they have for parts of the supply system which had not been recorded. The duty to provide information brings a new offence to fail to provide such information (Regulation 38(1)). Information should be provided to the enforcing authority within a reasonable timescale and will depend on the complexity of the information required. The register should be available from 1 January 2019 when there will then be a transition period until January 2022 to improve upon the information held in the register.

Risk assessment of water supplies

The new Regulations requires for the completion of a risk assessment for all private water supplies covered by the Regulations by 1 January 2022. The risk assessment must be updated at least every 5 years.

Water quality standards and duties

A person or water supplier may apply in writing for a derogation from the water quality standards set out in the Regulations. The Regulations introduce a duty of care in that any person in relation to the supply of water must not take any action which allows deterioration in the quality of water. This is not restricted to the relevant person/s. Similarly the Regulations introduce a duty that materials or substances used in the supply system or added to the supply should not contaminate the supply.

Monitoring and analysis

Each enforcing authority is required to develop a monitoring programme for each supply zone that meets the requirements of Schedule 3 of the Regulations. In addition to supply zone monitoring each supply must be

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monitored at least annually for a smaller group of parameters that are considered to be of health significance – these are detailed in Schedule 3 Part B paragraph 4.

Information and reporting

There is a duty to provide information to consumers with the minimum requirement that the notice will inform consumers that the water is from a private supply. The enforcing authority may specify whatever relevant information it perceives fit to display to consumers.

Enforcement

Remediation Notices can be served to make improvements to a supply where a problem is apparent – they can only be served to a relevant person. Notification of DWQRS etc should be done within 28 days of the notice being served.

Enforcement Notices should be served where a person (not necessarily a relevant person) has contravened the requirements of the Regulations, and can be used where there has been a deterioration in water quality. Notification of DWQRS etc should be done within 28 days of the notice being served.

Emergency Notices, unlike Remediation and Enforcement Notices, can come into force immediately without a 14 day delay for appeal. They can be served on any person (not necessarily a relevant person) where urgent action is required to reduce or remove the risk to either public health or the quality of the water supply, or both.

Grant scheme

The grant scheme remains as before however it is due to be reviewed. A grant scheme is available to improve the nature or quality of the supply including installation of treatment equipment or for the provision of a new private supply or domestic distribution system. Grants will not cover sampling or analysis costs. This is comparable to the public supply where consumers contribute to sampling and testing via their water charges.

The grant will be available to an “eligible person” which can be both individuals and businesses. It will not be means tested. An eligible person may be:

- a relevant person
- a responsible person
- an owner or occupier of premises to which a private supply is the only or main water supply for human consumption, and
- the person provides or receives a supply which has been the subject of a temporary departure, has had a risk assessment carried out or has had a statutory notice served in terms of the 1980 Act.

Amount of grant

The local authority may award grants of up to £800. Grant awards of more than £800 may be awarded if undue hardship would result for the eligible person otherwise. Where several consumers agree to implement joint improvement works, each can apply for a grant. The grant may be paid in instalments or in whole after completion of the works to the local authority's satisfaction.

Exemptions from eligibility

Grants applications will not be considered in the following circumstances:

- Where a grant has already been awarded in the previous 5 years for the same premises, except where a further risk assessment has been carried out or the local authority considers further works are required, in which case a grant may be available up to the difference between the grant limit and the original award.
- Where all or part of the required improvements are eligible for a housing improvement or repairs grant under schemes administered by the local authority, and this has not been refused.

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- For any premises due to be demolished, uninhabited, or the subject of renovation to bring it up to tolerable standards or which have been designated as dangerous buildings.
- For new houses (because there are existing obligations to provide an adequate water supply).
- Where improvement work that has already been started, or where a contract has already been entered into, except where exceptional circumstances required the work to be started before applying for the grant.
- Where the recipient is a public body or office-holder

Given the regulations will now apply to domestic rented property members should consider making use of the £800 per property grant available from local authorities to improve private water supplies. It should be noted that this grant can be increased if undue hardship can be proved. Find more information [here](#).

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