WELSH STATUTORY INSTRUMENTS

2007 No. 3374 (W.299)

WATER, ENGLAND AND WALES

The Water Supply (Water Quality) Regulations 2001 (Amendment) Regulations 2007

Made - - - -	*28 November 2007*
Laid before the National Assembly for Wales - -	*30 November 2007*
Laid before Parliament	*30 November 2007*
Coming into force - -	*22 December 2007*

The Welsh Ministers are designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the quality of water intended for domestic purposes or for use in a food production undertaking

These Regulations make provision for a purpose mentioned in that section and it appears to the Welsh Ministers that it is expedient for the reference to Council Directive 89/106/EEC on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products(**3**) and to Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society Services(**4**) to be construed as references to those instruments as amended from time to time

The Welsh Ministers make regulation 2(20)(a) and (b) and (21) in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 (as read with paragraph 1A of Schedule 2 to that Act(**5**)), regulation 5 in exercise of the powers conferred by section 39 of the National Health Service Reform and Health Care Professions Act 2002(**6**), regulation 6 in exercise of the powers conferred by section 103 of the Water Act 2003(**7**), and all other provisions in these Regulations in exercise of the powers conferred by sections 67, 69, 77(3) and (4) and 213(2) of the Water Industry Act 1991(**8**):

(**1**) S.I. 2004/3328, as amended by S.I. 2005/850; the powers conferred on the National Assembly for Wales by those instruments are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
(**2**) 1972 c. 68.
(**3**) OJ No L 40, 11.2.1989, p.12, as amended.
(**4**) OJ No L 204, 21.7.1998, p.37, as amended.
(**5**) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51).
(**6**) 2002 c. 17.
(**7**) 2003 c. 37.
(**8**) 1991 c. 56; the functions of the Secretary of State under section 67 were transferred to the National Assembly for Wales ("the Assembly") — (a) for the making of regulations concerning water supplied using the supply system of a water undertaker, in relation to the supply system of any water undertaker whose area is wholly or mainly in Wales and (b) for the making of regulations concerning water supplied other than using the supply system of a water undertaker, in relation to Wales, by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) ("the

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Water Supply (Water Quality) Regulations 2001 (Amendment) Regulations 2007.

(2) These Regulations come into force on 22 December 2007.

(3) These Regulations apply to England and Wales.

(4) In these Regulations, "the Principal Regulations" means the Water Supply (Water Quality) Regulations 2001(**9**).

Amendments to the Principal Regulations

2.—(1) The Principal Regulations are amended as follows.

(2) In regulation 1 (citation, commencement and application)—

(a) in paragraph (2), for the words before "come" substitute "This regulation, regulations 2, 40, 41 and 43(1)";

(b) for paragraphs (6) and (7) substitute—

"(6) Parts I to VIII, X and XI of these Regulations apply in relation to the supply of water by every—

(a) water undertaker whose area is wholly or mainly in Wales; and

(b) licensed water supplier so far as relating to licensed activities using the supply system of any water undertaker whose area is wholly or mainly in Wales.

(7) Part IX of these Regulations applies to local authorities in Wales, as regards the discharge of functions under that Part, in relation to every—

(a) water undertaker whose area is wholly in Wales;

(b) water undertaker whose area is partly in Wales and partly in England, but only in respect of the part in Wales; and

(c) licensed water supplier so far as relating to licensed activities using the supply system situated in Wales of any water undertaker.".

(3) In regulation 2 (interpretation), in paragraph (1)—

(a) for the definition of "appropriate local authority" and "appropriate health authority" substitute—

""appropriate local authority", in relation to—

Order"); the functions of the Secretary of State under section 69 of that Act were, in relation to any water undertaker whose area is wholly or mainly in Wales and any licensed water supplier so far as relating to licensed activities using the supply system of any such water undertaker, transferred to the Assembly by the same provisions of the Order; the functions of the Secretary of State under section 77 of that Act were transferred to the Assembly in relation to Wales by the same provisions of the Order; the functions of the Secretary of State under section 213 of that Act were exercisable by the Assembly to the same extent as the powers to which that section applies were exercisable by the Assembly by virtue of the same provisions of the Order : see the entry in Schedule 1 to the Order for the Water Industry Act 1991 as substituted by paragraph (e) of Schedule 3 to the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253) and amended by section 100(2) of the Water Act 2003 (c. 37); there are other amending instruments but none is relevant. Sections 69 and 213 of that Act were amended by sections 58 and 101(1) of, paragraph 39 of Schedule 7 to, and paragraphs 2, 19 and 49 of Schedule 8 to, the Water Act 2003. References in Schedule 1 to the Order to specific sections of the Water Industry Act 1991 are treated by section 100(6) of the Water Act 2003 as referring to those sections as amended by the Water Act 2003. See section 219(4A) of the Water Industry Act 1991 as inserted by section 101(1) of, and paragraphs 2 and 50 of Schedule 8 to, the Water Act 2003 for the definition of "supply system". See section 219(1) of the Water Industry Act 1991 as amended by section 101(1) of, and paragraphs 2 and 50 of Schedule 8 to, the Water Act 2003 for the definition of "licensed water supplier". By virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), the functions conferred on the Assembly are now exercisable by the Welsh Ministers.

(**9**) S.I. 2001/3911 (W.323), as amended by S.I. 2005/2035.

(a) a departure authorised under regulation 20;

(b) an application for any such authorisation; or

(c) an event specified in regulation 35(6),

means a local authority whose area contains any part of the water supply zone to which the authorisation relates or, in the case of an application, would relate if a departure were authorised in the terms sought, or whose area is affected or is likely to be affected by the event;";

(b) for the definition of "disinfection" substitute—

""disinfection" means a process of water treatment to—

(a) remove; or

(b) render harmless to human health,

every pathogenic micro-organism and pathogenic parasite that would otherwise be present in the water; and "disinfected" shall be construed accordingly;";

(c) in their appropriate places, insert new definitions as follows—

""Health Protection Agency" means the body established under section 1 of the Health Protection Agency Act 2004(**10**);"; and

""National Public Health Service for Wales" means an NHS trust within the meaning of the National Health Service (Wales) Act 2006(**11**) if, and in so far as, it has the function of providing services in relation to public health in Wales;".

(4) In regulation 3 (water supply zones), after paragraph (2) insert—

"(2A) The water quality within a water supply zone shall be approximately uniform.".

(5) In regulation 4 (wholesomeness), after paragraph (3)(a) insert—

"(aa) in the case of water supplied in bottles or containers, the point at which the water first emerges from any bottle or container collected from a local distribution point;".

(6) In regulation 8 (authorisation of supply points)—

(a) in paragraph (1)—

(i) at the beginning, for "The" substitute "Subject to paragraph (1A), the",

(ii) for "items 7, 8 and 9 to 25" substitute "items 7, 8, 9 to 15 and 17 to 25";

(b) after paragraph (1), insert—

"(1A) In respect of any water supply zone, the taking of samples from a supply point is not authorised by paragraph (1) where a combined licensee introduces water into the water supply zone unless the water quality within the water supply zone remains approximately uniform."; and

(c) in paragraph (2), for "in relation to any parameter other than a parameter referred to in paragraph (1)" substitute "in relation to any parameter not covered by the authorisation in paragraph (1)".

(7) In regulation 9 (numbers of samples), omit paragraph (3).

(8) In regulation 13 (sampling at treatment works), omit paragraph (3).

(9) In regulation 15 (sampling: new sources), at the end add—

"(4) Unless the conditions in paragraph (5) are satisfied, a water undertaker or combined licensee shall not supply water from a source mentioned in paragraph (1)(a) for

(**10**) 2004 c. 17.
(**11**) 2006 c. 42.

regulation 4(1) purposes until three months have passed following the day on which the water undertaker or combined licensee complied with regulation 28(1) with respect to that source.

(5) The conditions are that the water undertaker or combined licensee—

(a) must supply water from the source as a matter of urgency in order to prevent an unexpected interruption in piped supply to consumers; and

(b) before the supply is made, has carried out a risk assessment under regulation 27 specifically with respect to the source.

(6) For the purposes of paragraph (5)(b), regulation 27 shall apply to supplies made as a matter of urgency as if "treatment works" includes a source from which untreated water is supplied.".

(10) After regulation 16 (collection and analysis of samples) insert—

"PART VA

DRINKING WATER PROTECTED AREAS

Drinking water abstraction points: monitoring sites

16A.—(1) Every water undertaker or combined licensee shall identify every point from which it abstracts water for supply for regulation 4(1) purposes.

(2) At every abstraction point, the relevant water undertaker or combined licensee shall take, or cause to be taken, such samples, and analyse, or cause to be analysed, those samples for such properties, organisms and substances as it considers necessary in order to comply with regulations 26 to 28.

(3) In relation to any abstraction point, the Welsh Ministers may, by notice served on the relevant water undertaker or combined licensee, require the relevant water undertaker or combined licensee—

(a) to take, or cause to be taken, such numbers of samples of water per year as may be specified; and

(b) to analyse, or cause to be analysed, those samples for such concentrations or values of such properties, organisms and substances, and at such frequencies, as may be specified.

(4) The Welsh Ministers may, by notice served on the relevant water undertaker or combined licensee, revoke or amend a notice served under paragraph (3).

(5) Every analysis required under—

(a) paragraph (2), in relation to every body of surface water which provides more than 100 cubic metres of water per day as an average, shall be carried out at no less than the following frequencies—

(i) 4 per year, where the population served by the body of surface water is less than 10,000 people,

(ii) 8 per year, where the population so served is 10,000 to 30,000 people, and

(iii) 12 per year, where the population so served is greater than 30,000 people; and

(b) paragraphs (2) and (3) shall be in accordance with such relevant standards as may be specified by the Welsh Ministers by notice served on the water undertaker or combined licensee.

(6) For the purposes of—

(a) paragraphs (2) and (3)—

(i) "abstraction point" means an abstraction point identified under paragraph (1), and

(ii) "relevant water undertaker or combined licensee" means the water undertaker or combined licensee which identified the abstraction point;

(b) paragraph (3), "specified" means specified in the notice served under that paragraph; and

(c) paragraph (5), "body of surface water" has the meaning given in Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy(**12**).".

(11) In regulation 17 (investigations : Schedule 1 parameters), in paragraph (7), for "regulation 35(9)" substitute "regulation 35(6)(a)(iv)".

(12) In regulation 20 (authorisation of temporary supply of water that is not wholesome), in paragraph (4)—

(a) for sub-paragraph (b), substitute—

"(b) the National Public Health Service for Wales;"; and

(b) after sub-paragraph (b), insert—

"(ba) where the water supply zone is wholly or partly in England, the Health Protection Agency; and".

(13) In regulation 23 (publicity for authorisations), for paragraph (1) substitute—

"(1) As soon as reasonably practicable after a departure has been authorised, the specified relevant suppliers shall—

(a) separately publish, by making accessible, free of charge, on their websites via a hyperlink maintained on their respective homepages for at least 14 days—

(i) except in a case to which paragraph (4) of regulation 21 applies, a notice containing a statement of the matters specified in paragraph (3)(a)(ii), (iii), (viii) and (ix) of that regulation, and

(ii) in a case to which paragraph (4) of regulation 21 applies, a notice containing a statement of the matters specified in paragraph (3)(a)(ii), (iii) and (ix) of that regulation; and

(b) jointly give such other public notice of the authorisation and of its terms and conditions as the Welsh Ministers may, by notice served on the specified relevant suppliers, reasonably require.".

(14) In regulation 24 (revocation and modification of authorisations), in paragraph (2)—

(a) for sub-paragraph (b), substitute "every appropriate local authority;";

(b) for sub-paragraph (c), substitute "the National Public Health Service for Wales;"; and

(c) after sub-paragraph (c), insert—

"(ca) where the authorisation relates to a water supply zone which is wholly or partly in England, the Health Protection Agency; and".

(15) Omit regulation 25 (interpretation).

(16) For regulation 26 (treatment of raw water) substitute—

(**12**) OJ No L327, 22.12.2000, p.1, as amended.