Draft Regulations laid before Parliament under section 213(1A) of the Water Industry Act 1991, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2005 No.

WATER INDUSTRY, ENGLAND

The Water Supply (Fluoridation Indemnities) (England) Regulations 2005

Made - - - -	*####*
Coming into force - -	*1st April 2005*

Whereas a draft of the following Regulations was laid before Parliament in accordance with section 213(1A) of the Water Industry Act 1991(**1**) and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State, in exercise of the powers conferred by sections 90(3) and 213(2)(e) of the Water Industry Act 1991(**2**), hereby makes the following Regulations:—

Citation, commencement and application

1.—(1) These Regulations may be cited as the Water Supply (Fluoridation Indemnities) (England) Regulations 2005 and come into force on 1st April 2005.

(2) These Regulations apply to agreements to indemnify water undertakers and licensed water suppliers whose areas are situated wholly in England.

Indemnities in respect of fluoridation

2.—(1) Where the Secretary of State agrees to indemnify a water undertaker under section 90(1) of the Water Industry Act 1991 (indemnities in respect of fluoridation), the form of that indemnity and its terms shall be those set out in Schedule 1 to these Regulations.

(2) Where the Secretary of State agrees to indemnify a licensed water supplier under section 90(2) of that Act, the form of the indemnity and its terms shall be those set out in Schedule 1 to these Regulations, subject to the modifications set out in Schedule 2 to these Regulations.

(**1**) 1991 c. 56; section 213(1A) was inserted by section 58(8) of the Water Act 2003 (c.37). As these are the first Regulations under section 90, the affirmative procedure applies.
(**2**) Section 90 was substituted by the Water Act 2003 (c.37), section 58(6).

Signed by authority of the Secretary of State for Health

Parliamentary Under Secretary of State
2005 Department of Health

SCHEDULE 1 Regulation 2(1)

FLUORIDATION OF WATER SUPPLIES: INDEMNITY

Definitions

1. In this indemnity—

(a) "the Act" means the Water Industry Act 1991 as amended by the Water Act 2003;

(b) "the agreement" means the agreement or agreements which are specified in an annex hereto and any other schemes for the fluoridation of water to which section 87 of the Act applies and in respect of which the water undertaker has or may have liability, and any agreement or arrangements for the supply of fluoridated water to which the water undertaker is a party, including in each case any agreement to vary the agreement or arrangement;

(c) "the water undertaker" means *[insert name of undertaker]* and, where the context requires, its predecessor water authority and includes their respective directors, employees and agents for whom the undertaker is liable;

(d) "fluoridated water" means water supplied in accordance with the agreement with [*insert name of relevant strategic health authority*], being water fluoridated in compliance, or in purported compliance, with the Act;

(e) "predecessor water authority" means *[insert name of relevant authority]* or any predecessor acting as a statutory water undertaker in the whole or any part of the water region which performed functions which have been transferred to the water undertaker;

(f) "the water region" means the geographical area for which the water undertaker has been appointed pursuant to the Act or, in relation to a predecessor water authority, the area within which it had a duty to supply water under section 11 of the Water Act 1973 (**3**) (excluding any area in respect of which that authority discharged its duty through a statutory water company pursuant to section 12 of that Act) or pursuant to any equivalent provision of a previous enactment.

Indemnity

2.—(1) Pursuant to section 90 of the Act and subject to clauses 3 to 5 below, the Secretary of State for Health hereby indemnifies the water undertaker–

(a) against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities;

(b) in respect of any death or personal injury, or loss of or damage to property;

which is caused directly or indirectly by any action or failure to act by the water undertaker to which paragraph (2) below applies.

(2) This paragraph applies to any action or failure to act–

(a) in supplying;

(b) in having supplied; or

(c) in proposing to supply;

fluoridated water to any person in pursuance, or in purporting to pursue, any obligation or duty to supply water under the agreement.

(**3**) 1973 c.37.