STATUTORY RULES OF NORTHERN IRELAND

# 2009 No. 413

# WATER AND SEWERAGE

## The Private Water Supplies Regulations (Northern Ireland) 2009

| | |
|---|---|
| *Made - - - -* | *11th December 2009* |
| *Coming into operation* | *18th January 2010* |

The Department of the Environment, in exercise of the powers conferred by Articles 107(2) and (3) and 118(3) and (4) of the Water and Sewerage Services (Northern Ireland) Order 2006 (**1**) and being a Department designated (**2**) for the purposes of section 2(2) of the European Communities Act 1972 (**3**) in relation to the environment in exercise of the powers conferred upon it by that section, hereby makes the following Regulations:

## PART 1

### Water Standards

**Citation and commencement**

**1.** These Regulations may be cited as the Private Water Supplies Regulations (Northern Ireland) 2009 and shall come into operation on 18th January 2010.

**Interpretation**

**2.**—(1) The Interpretation Act (Northern Ireland) 1954 (**4**) shall apply to these Regulations as it applies to an Act of the Assembly.

(2) In these Regulations—

"the 2006 Order" means the Water and Sewerage Services (Northern Ireland) Order 2006;

"the Appeals Commission" means the Water Appeals Commission for Northern Ireland as established under Part XII of the 2006 Order;

"the Department" means the Department of the Environment;

(**1**) S.I. 2006/3336 (N.I. 21)
(**2**) S.I. 2008/301
(**3**) 1972 c.68
(**4**) 1954 c.33 (NI)

"district council" means a district council as established under Part I of the Local Government Act (Northern Ireland) 1972(**5**);

"the Public Health Agency" means the Regional Agency for Public Health and Social Well-being as established under Section 12 of the Health and Social Care (Reform) Act (Northern Ireland) 2009(**6**);

a "responsible person" is—

(a) the owner or occupier of the land supplied; and

(b) any other person who exercises powers of management or control in relation to the supply.

(3) Any other expressions used in these Regulations and in Council Directive 98/83/EC on the quality of water intended for human consumption (**7**) have the same meaning as in that Directive.

### Water Supplies to which these Regulations apply

**3.**—(1) These Regulations apply to all water supplies intended for human consumption not provided by a water undertaker appointed under Article 13 of the 2006 Order.

(2) The supplies in paragraph (1) are referred to in these Regulations as private supplies.

### Exemptions

**4.** These Regulations do not apply in relation to—

(a) water controlled by the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2007(**8**);

(b) water that is a medicinal product within the meaning of the Medicines Act 1968(**9**); or

(c) water used solely for washing a crop after it has been harvested and that does not affect the fitness for human consumption of the crop or of any food or drink derived from the crop.

### Wholesomeness

**5.** Water is wholesome if all the following conditions are met—

(a) it does not constitute a risk to human health;

(b) it meets the concentrations and values specified in Part 1 of Schedule 1; and

(c) in the water:

$$\frac{\text{nitrate (mg/l)}}{50}+\frac{\text{nitrite (mg/l)}}{3}\leq 1$$

.

### New installations

**6.** Only substances or products specified under regulation 30 of the Water Supply (Water Quality) Regulations (Northern Ireland) 2007(**10**) may be used for new installations for the preparation or distribution of water intended for human consumption.

(**5**) 1972 c.9 (NI)
(**6**) 2009 c.1 (NI)
(**7**) O.J. No. L 330, 5.12.98, p.32
(**8**) S.R. 2007 No. 420
(**9**) 1968 c. 67 (see section 130) to which there are amendments not relevant to these Regulations
(**10**) S.R. 2007 No. 147 as amended by S.R. 2009 No. 246

**Requirement to carry out a risk assessment**

**7.**—(1) The Department shall carry out an assessment ("risk assessment") of the potential risks associated with each private supply to which these Regulations apply (other than a supply to a single private dwelling) within eighteen months of the coming into operation of these Regulations, and subsequently every five years (or earlier if it considers that the existing risk assessment is inadequate).

(2) The Department shall carry out a risk assessment, where the private supply is a new supply and is to be used for the first time, within six months of that supply being identified as a private supply under Regulation 3.

(3) The Department may enter into an arrangement for any person to carry out a risk assessment on its behalf for the purposes of this regulation.

(4) The Department may provide for any such person to be reimbursed.

(5) The Department shall not enter into an arrangement under paragraph (3) unless it is satisfied that the task will be carried out promptly by a person competent to perform it.

(6) Schedule 2 (Requirements for Risk Assessment) has effect.

# PART 2

## Monitoring

**Monitoring**

**8.** The Department shall monitor all private supplies in accordance with this Part.

**Large supplies and supplies to commercial or public premises**

**9.** The Department shall monitor the private supply in accordance with Schedule 3 and carry out any additional monitoring that the risk assessment shows to be necessary if the private supply—

(a) provides an average daily volume of water of $10m^3$ or more or serves 50 or more persons; or

(b) supplies water to land where the water is used for a commercial activity (including commercial food production) or to public land.

**Other private supplies**

**10.**—(1) In the case of a private supply to more than one private dwelling that is not monitored in accordance with regulation 9, the Department shall monitor in accordance with the risk assessment and, in addition, at least once a year, it shall monitor for—

(a) conductivity;

(b) enterococci;

(c) Escherichia coli (E. coli);

(d) hydrogen ion concentration;

(e) turbidity;

(f) any parameter in Schedule 1 identified in the risk assessment as being at risk of exceeding the values in that Schedule; and

(g) anything else identified in the risk assessment as a potential risk to human health.

(2) The Department shall carry out any additional monitoring that the risk assessment shows to be necessary.

(3) The frequency of monitoring may be reduced to once every five years in accordance with the results of a risk assessment.

**Supplies to single private dwellings**

**11.** In the case of a private supply to a single private dwelling where the water is not used as part of a commercial activity the Department shall offer appropriate advice to the responsible person or persons.

**Sampling and analysis**

**12.**—(1) When the Department monitors a private supply it shall take a sample—

(a) from a tap normally used to provide water for human consumption and which, if there is more than one tap, is representative of the water supplied to the land;

(b) if the water is supplied for food production purposes, at the point at which it is used for food production; or

(c) if the water is supplied from a tanker, at the point at which it emerges from the tanker.

(2) The Department shall then ensure that any sample taken is analysed.

(3) The Department may enter into an arrangement for any person—

(a) to take and/or analyse samples on its behalf; and

(b) to report the findings to the Department as soon as they are available and to report any breach of these Regulations to it immediately.

(4) The Department may provide for any such person to be reimbursed.

(5) The Department shall not enter into an arrangement under paragraph (3) unless it is satisfied that the task will be carried out promptly by a person competent to perform it.

(6) Schedule 4 (Sampling and Analysis) has effect.

**Maintenance of records**

**13.** The Department shall keep records in respect of every monitored private supply in accordance with Schedule 5.

**Publication of information**

**14.**—(1) The Department shall publish annually a report about private supplies.

(2) The report shall contain —

(a) the number of private supplies in the preceding year; and

(b) any other information about private supplies, including information about the quality of private supplies, in such form as the Department may determine.

# PART 3

## Action in The Event of Failure

### Provision of information

**15.**—(1) If the Department considers that a private supply is a risk to human health it shall take appropriate steps to ensure that people likely to consume water from it—

(a) are informed that the supply constitutes a risk to human health;

(b) where possible, are informed of the degree of the risk; and

(c) are given advice to allow them to minimise any such risk.

(2) The Department shall notify the Public Health Agency and the district council for the district in which the private supply is situated.

### Investigation

**16.** The Department shall carry out an investigation to establish the cause if any sample that it takes is not wholesome, or if an indicator parameter in that sample exceeds the limits in Part 2 of Schedule 1.

### Procedure following investigation

**17.**—(1) Once the Department has established the cause of the water not being wholesome, it shall act in accordance with this regulation.

(2) If the cause of the water not being wholesome is attributable to the domestic distribution system within a private dwelling, the Department shall offer advice to the responsible person or persons on measures necessary for the protection of health.

(3) If paragraph (2) does not apply and if it cannot solve the problem informally the Department—

(a) may, on application by any responsible person, grant an authorisation to that person if the conditions in regulation 18(2) are fulfilled; and

(b) if it does not grant an authorisation shall serve a notice either in accordance with article 119 of the 2006 Order or under regulation 19 if the conditions in that regulation are fulfilled.

(4) Before serving a notice the Department shall have regard to any agreement, contract, licence or other document produced to the Department relating to the terms on which water is supplied.

### Authorisations of different standards

**18.**—(1) Any responsible person may apply to the Department for the granting of an authorisation under this regulation.

(2) The Department may grant an authorisation of different standards under this regulation if—

(a) the only cause of the water not being wholesome is that a parameter in Table B of Part 1 of Schedule 1 ("Table B") is not complied with;

(b) the Department has consulted the relevant District Council and the Public Health Agency and has taken their views into account;

(c) granting the authorisation does not cause a risk to human health; and

(d) the supply of water cannot be maintained by any other reasonable means.

(3) An authorisation shall require the responsible person or persons to take action over a period of time to ensure that the parameters in Table B are complied with and shall specify—