

SECTION 1: THE 2007 REGULATIONS



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Section 1: The 2007 Regulations

Summary of Section 1

- ◆ Describes the requirements of the Regulations for private water supplies in terms of standards of wholesomeness, monitoring (sampling and analysis), protection of human health, investigations of failures and remedial action, record keeping and other matters.
- ◆ Sets out the duties and roles of the private water suppliers and the Water Services Authorities (WSAs) as the supervisory authority for the private water suppliers.
- ◆ Sets out the duties and roles of the Environment Protection Agency (the EPA) as the supervisory authority for the WSAs where relevant to private water supplies.
- ◆ Sets out the role of the Health Service Executive (HSE) in protecting human health.

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1. Introduction and brief summary of the Regulations

1.1 Introduction

1.1.1 | The European Communities (Drinking Water) (No. 2) Regulations 2007 (the Regulations) fully transpose and implement the EU Council Directive 98/83/EC on the quality of water intended for human consumption. These Regulations came into effect on 12 June 2007 when the previous Regulations were repealed.

1.1.2 | This section describes the requirements of the Regulations for private water supplies including the responsibilities of the private water suppliers and the Water Services Authorities (WSAs) as the supervising authorities for private water supplies. It also describes the role of the Environment Protection Agency (the EPA) as the supervising authority for WSAs where relevant to private water supplies. While it paraphrases many of the provisions of the Regulations, it should be read in conjunction with text of the Regulations. For ease of understanding, the sub-sections follow a logical order rather than following the order of the Regulations.

1.1.3 | The following are private water supplies:

- ◆ **“Public” Group Water Schemes (PuGWS).** These are schemes where the treated water is provided by the WSA but responsibility for distribution of the treated water rests with the privately managed group scheme, such as a Committee or a Board. These schemes usually take water from the larger public water supplies.
- ◆ **“Private” Group Water Schemes (PrGWS).** These are schemes where the water is privately sourced, treated and distributed to the members (users) by a Management Committee or Board. Many of these schemes have their water treated under a Design, Build and Operate (DBO) contract arrangement.
- ◆ **Small Private Supplies (SPS).** This is a large group of different types of supply comprising industrial water supplies (such as those used in the brewing industry) to boreholes serving commercial premises (e.g. pubs, hotels etc.) and public buildings (e.g. schools, nursing homes).

1.1.4 | Collectively these are referred to as “private water supplies” and the groups, Committees, Boards, organisations or individual providing the supplies are referred to as “private water suppliers”. The “public” and “private” group water schemes combined supply water to around 10% of the population of Ireland.

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1.2 Brief summary of the Regulations

1.2.1 | Briefly the Regulations:

- ◆ define the water supplies covered and exempted;
- ◆ specify WSAs as the supervisory authority in respect of all private water supplies;
- ◆ require private water suppliers to supply wholesome and clean water and define such water by reference to standards and other requirements;
- ◆ define the points at which the standards apply;
- ◆ require WSAs to monitor (sample and analyse) private water supplies with their monitoring programmes subject to approval and enforcement by the EPA;
- ◆ require WSAs, in consultation and agreement with the Health Service Executive (the HSE), to take action to protect consumers whenever private water supplies are considered to be a risk to human health;
- ◆ require WSAs to ensure that failures to comply with the standards and other requirements are immediately investigated by the private water supplier;
- ◆ require the private water supplier to prepare and implement action programmes to secure compliance which are enforceable by the WSA;
- ◆ provide for the EPA, in consultation and agreement with the HSE, to grant departures from the some of the standards pending completion of action programmes;
- ◆ require private water suppliers to inform consumers of the remedial action taken;
- ◆ require WSAs to keep a register of each private water supply within their functional areas;
- ◆ require WSAs to keep up-to-date records of the results of monitoring and make them available to the consumers of private water supplies;
- ◆ require private water suppliers to maintain records of any incidents of failure affecting their operations and to make the records available to WSAs;

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- ◆ require private water suppliers to ensure that the efficiency of disinfection is verified, that concentrations of disinfection by-products are minimised without compromising disinfection and that substances and materials used in water supplies do not compromise human health;
- ◆ require WSAs to audit private water supplies;
- ◆ a person authorised by the WSA (may be a member of the WSA staff or from another organisation) may at all reasonable times enter any premises (the private water supply or premises served by the supply) for carrying out duties under the Regulations (such as sampling and investigation of failures);
- ◆ make it an offence for private water suppliers to fail to meet certain requirements (such as to comply with Directions from WSAs or to notify WSAs of incidents); and
- ◆ provide for prosecution of offences either summarily or on indictment.

1.3 General matters

1.3.1 | Regulation 1 cites that the Regulations are called ‘the European Communities (Drinking Water) (No. 2) Regulations 2007’ (S.I. 278 of 2007). Regulation 2 states that the Regulations come into immediate effect which means they apply from 12 June 2007. Regulation 3 defines and interprets various terms used in the Regulations.

2. Application of the Regulations

2.1 Supplies covered

2.1.1 | The supplies covered by the Regulations are defined in regulation 3(1) by the meaning of the term ‘water intended for human consumption’. Thus the Regulations apply to all public water supplies and many private water supplies as follows:

- ◆ public water supplies supplied by WSAs through a distribution network; and
- ◆ private water supplies including:

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- public group water schemes – where the treated water is provided by a WSA but the responsibility for distribution of the treated water to the users rests with a privately managed group scheme, such as a Management Committee or Board. These schemes usually take water from the larger public water supplies;
- private group water schemes - where the water is privately sourced, treated and distributed to the members (users) by a Management Committee or Board. Many of these schemes have their water treated under a Design, Build and Operate (DBO) contract arrangement;
- individual private water supplies that supply 10 m³/d or more on average (50 or more persons); and
- ◆ individual private water supplies that supply less than 10 m³/d on average (less than 50 persons) and are part of a commercial or public activity, such as bed and breakfast establishments;
- ◆ water supplied from a tanker (or similar container) for example when the normal distributed supply is not available or prohibited (a do not drink water notice is in force); and
- ◆ all water used in food production (whether in manufacturing, processing, preserving or marketing) unless the EPA for public water supplies or WSAs for private water supplies is satisfied that the quality of that water cannot affect the wholesomeness of the foodstuff in its finished form (see paragraph 2.1.5).

2.1.2 | A dairy farm supplied by a private supply is covered by the Regulations because the use of the water in milking and production of milk based products could affect the wholesomeness of the finished food products.

2.1.3 | **This handbook applies to all private water supplies supplied by private water suppliers (or their DBO agents) as described above and water supplied in tankers or similar containers by private water suppliers when the private water supply is not available from the distribution network or a do not drink water notice is in force.**

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2.1.4 | A similar ‘Handbook on Implementation for Water Services Authorities on Public Water Suppliers’ applies to all the above public water supplies and water supplied in tankers or similar containers by WSAs when water is not available from a public water supply or a do not drink water notice is in force.

2.1.5 | There may be some private water supplies that do not provide water to any premises for domestic purposes (drinking, cooking etc) and only provide water to a food production undertaking. If there are any such supplies, the WSA may be able to exempt them from the Regulations if it is satisfied that the quality of the water cannot affect the wholesomeness of the finished foodstuff. Examples of water used in food production where the WSA may be satisfied that the quality of the water cannot affect the wholesomeness of the finished foodstuff are:

- ◆ washing of barley prior to making whisky and water used in distillation; and
- ◆ washing of vegetables prior to processing for canning.

Examples of water used in food production where the quality of the water could affect the wholesomeness of the finished foodstuff are:

- ◆ washing of salad crops (such as lettuce, water cress and spring onions) that are eaten uncooked;
- ◆ washing of fruit (such as eating apples, pears and plums) that are eaten raw; and
- ◆ in dairy farms for the processing of milk and other dairy products and the cleaning of equipment and utensils.

2.2 Supplies exempted

2.2.1 | The exempted supplies are defined in regulation 3(1) partly under the meaning of ‘water intended for human consumption’ and partly under the meaning of ‘exempted supply’. Thus the following supplies are exempted from the provisions of the Regulations:

- ◆ natural mineral water as defined in the European Communities (Natural Mineral Waters, Spring Waters and Other Waters in Bottles or Containers Regulations 2007) (S.I. No. 225 of 2007);

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- ◆ water, other than natural mineral water, supplied in bottles or other similar containers (Natural Mineral Waters, Spring Waters and Other Waters in Bottles or Containers Regulations 2007) (S.I. 225 of 2007);
- ◆ waters which are medicinal products (within the meaning of EU Council Directive 65/65/EEC of 26 January 1965);
- ◆ individual supplies of less than 10 m³/d on average or serving fewer than 50 persons, provided that those supplies are not used in a commercial or public activity (such as a hotel or similar commercial outlet);
- ◆ supplies used solely for purposes in respect of which (in the view of the relevant supervisory authority) the quality of the water could have no influence whatsoever on the health of consumers; and
- ◆ supplies used in food production (whether in manufacturing, processing, preserving or marketing) which the EPA for public water supplies or WSAs for private water supplies is satisfied that the quality of that water cannot affect the wholesomeness of the foodstuff in its finished form.

2.2.2 | For the exempted supplies specified in the last three bullets of 2.2.1, the Regulations require WSAs to notify those supplied that the Regulations do not apply. WSAs must also indicate to those consumers the action that can be taken to protect their health from the adverse effects of any contamination of the supply and when a potential danger to human health comes to light from an exempted supply, the relevant WSA must provide appropriate advice promptly to the consumers of that supply.

3. Role of WSA's and the EPA as the Supervisory Authority

3.1 Role of WSAs

3.1.1 | Under regulation 3(1) the WSA is defined as the supervisory authority for all private water supplies in its functional area. Thus each WSA is responsible for monitoring (sampling and analysis) of all private water supplies in its area and for enforcement

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of compliance by the private water suppliers with the standards for drinking water quality and other relevant requirements of the Regulations. The Regulations specifically provide for each WSA:

- ◆ to monitor compliance of water supplied by private water suppliers with the standards (tables A and B of part 1 of the schedule) and indicator parameter values (table C of part 1 of the schedule) specified in the Regulations (regulation 7(2));
- ◆ to direct private water suppliers to keep such records as it may specify on the management, treatment, monitoring and remedial action in relation to private water supplies (regulation 8(1)), to maintain a register of all private water supplies in its area (regulation 8(3)) and to require private water suppliers to provide specified information to enable it to maintain the register (regulation 8(5));
- ◆ to ensure, in consultation and agreement with the HSE, that whenever it is considered that a private water supply is a potential danger to human health that appropriate action is taken by the private water supplier, such as prohibiting or restricting the supply of water, to protect consumers (regulation 9(1));
- ◆ to ensure that any failure to comply with the standard and indicator parameter values is immediately investigated by the private water supplier to identify the cause (regulation 10(1));
- ◆ to ensure that the necessary remedial action is taken by the private water supplier as soon as possible to restore drinking water quality and if necessary to issue a Direction to the water supplier for that purpose (regulation 10(4)) and to amend and approve remedial action programmes submitted to it by private water suppliers (regulation 10(6));
- ◆ to make an application for a departure to the EPA in respect of a private water supply when such an application is appropriate (regulation 11(2));
- ◆ to issue such directions to private water suppliers as it considers necessary to achieve compliance with the standards and indicator parameter values and if a private water supplier fails to comply to carry out or arrange to carry out any action needed to comply and to recover the costs from the private water supplier (regulation 12);

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- ◆ to direct private water suppliers to undertake specific measures to comply with the requirement on the quality of treatment (including disinfection), equipment and materials (regulation 13(3));
- ◆ to give such directions to private water suppliers as it considers appropriate for its functions under the Regulations (regulation 16(1));
- ◆ to undertake an audit of private water supplies to ensure that the Regulations are complied with by the private water suppliers (regulation 17(1));
- ◆ to apply to the High Court for an order when a person fails to comply with a direction issued by it or fails to comply with a requirement of the Regulations (regulation 18(1));
- ◆ to recover its costs for monitoring private water supplies [from the private water supplier]; and
- ◆ to take a prosecution against a private water supplier for any of the summary offences specified in the Regulations (regulation 22(1)).

3.1.2 | Where a private water supply is made within the functional areas of two or more WSAs, the WSAs concerned may agree that one of the WSAs shall perform the functions required by the Regulations in respect of that private water supply (regulation 7(3)(a)). It would be reasonable for the WSA with the largest part of the private water supply in its area to agree to perform these functions. The Minister at the Department of Environment Heritage and Local Government (DoEHLG) may direct those WSAs to nominate a WSA to perform these functions and if those WSAs fail to comply the Minister may direct one of the WSAs to perform these functions (regulation 7(3)(b)). It is likely that the Minister will only use these powers when the WSAs fail to agree amongst themselves which WSA shall perform the functions.

3.2 Role of the EPA

3.2.1 | Under the Regulations the EPA is the supervising authority for the WSAs and this includes some of the WSAs' duties and responsibilities in respect of private water supplies. The Regulations specifically provide for the EPA to:

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- ◆ to review WSAs' monitoring programmes in respect of private water supplies (regulation 7(5)(b)), to direct WSAs to amend their monitoring programmes (regulation 7(6)), to issue guidelines on the manner, frequency and method of monitoring (regulation 7(11)), to supervise the performance of WSAs on their monitoring functions and direct WSAs as necessary (regulation 7(12) and apply to the High Court for an order when a WSA has failed to comply with a Direction on monitoring (regulation 7(15));
- ◆ to issue guidelines to assist WSAs to fulfil their obligations about protecting human health when there is potential danger to health from private water supplies (regulation 9(5));
- ◆ to issue guidelines for private water suppliers to notify WSAs of any failures to meet the standards and indicator parameter values (regulation 10(2)) and on the nature and timing of remedial and enforcement action (regulation 10(8)) to ensure that remedial action is taken by private water suppliers to restore the quality of water; and
- ◆ with the agreement of the HSE, to grant (regulation 11(1)) and review (regulation 11(4)(d)) departures from the standards in respect of private water supplies on applications by WSAs and to specify the information to be included in the applications (regulation 11(3)).

4. Duties of private water suppliers to supply wholesome water

4.1 | Regulation 4 requires private water suppliers to ensure that their water supplies are wholesome and clean, and that they meet the requirements of the Regulations. Water that is "wholesome and clean" is defined as water which:

- ◆ is free from any micro-organisms and parasites and from any substances which in numbers or concentrations, constitute a potential danger to human health; and
- ◆ meets the quality standards specified in Tables A (microbiological) and B (chemical) in part 1 of the schedule to the Regulations.

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4.2 | The indicator parameter values in Table C of part 1 of the schedule to the Regulations are not part of the definition of a wholesome and clean water. However if there is a breach of one of these values, the WSA is required to consider whether the breach poses a risk to human health and if it does to require the relevant private water supplier to take action to restore the quality of water (regulation 10(5)). The WSA is required to consult, and agree with, the HSE on whether there is a risk to human health (regulation 9(2)).

4.3 | Under regulation 6(1), a private water supplier is not in breach of its obligations under the Regulations where any non-compliance with the standards or indicator parameter values is due to the domestic distribution system in premises or the maintenance of that system (see paragraph 12 of this section).

4.4 | WSAs determine whether the private water supplies in their functional areas are wholesome by carrying out the monitoring (sampling and analysis) required by regulation 7 and parts 2 and 3 of the schedule to the Regulations (see sub-section 6 of this section). Where this monitoring shows that a water supply does not meet the requirements and standards in paragraph 4.1 and the values in paragraph 4.2, the WSA is required to ensure that the private water supplier investigates the failure to determine the cause and to take appropriate remedial action (see sub-section 8 of this Section). When a failure is considered to be a potential danger to human health, the WSA is required, in agreement with the HSE, to ensure that the private water supplier takes action to protect consumers (see paragraph 7 of this section). WSAs may direct a private water supplier to keep records about the management and treatment of its supply, the corrective action taken following non-compliance or verification of the efficiency of disinfection (regulation 8(1)). WSAs are required to maintain a register of private water supplies including details of each private water supply, the results of monitoring to determine compliance with the standards, the results of investigation of failures and details of remedial action taken (regulations 8(3) and (4)).

4.5 | Private water suppliers and WSAs in taking measures under the Regulations must ensure that there is no deterioration in the existing quality of private water supplies so far as that is relevant for the protection of human health or an increase in the pollution of waters used in the production of water supplies (regulation 15).

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5. Point of compliance with the standards

5.1 | The standards and other requirements of wholesomeness in paragraph 4.1 and the indicator parameter values in paragraph 4.2 are required to be met as follows:

- ◆ at the taps normally used for human consumption (such as kitchen taps - consumers' taps) in the case of water supplied by private water suppliers through a distribution network;
- ◆ at the point where it emerges from a tanker or similar container provided by a private water supplier when the normal distributed supply is not available or is prohibited; and
- ◆ at the point where water is used in a food undertaking.

5.2 | WSAs are required to monitor compliance with the standards and other requirements in private water supplies by taking and analysing samples from consumers' taps in premises in the distribution network. However, WSAs may take samples from other points within the distribution network (such as service reservoirs) or from treatment works for particular parameters if WSAs can demonstrate that there will be no adverse change in the concentrations or values of those parameters between those points and consumers' taps.

6. Monitoring of drinking water quality

6.1 Role of WSAs

6.1.1 | Each WSA is required under regulation 7(2) to monitor all the private water supplies in its functional area to determine whether they comply with the standards and other requirements of the Regulations. To achieve this each WSA is required by regulation 7(5) to establish an annual monitoring programme that accords with the detailed provisions (frequency and parameters for check and audit monitoring) in part 2 of the schedule to the Regulations and which specifies the points at which samples will be taken for analysis. The DoEHLG has already issued each WSA with an interactive database under the Drinking Water National Monitoring Programme (DWNMP) which enables WSAs to generate the monitoring programmes. Each WSA is also required to carry out on a case by case basis under regulation 7(10) additional monitoring for substances and micro-organisms for which no standard is set in the Regulations,

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but where there is reason to suspect that they may be present and they may pose a potential danger to human health (these could include for example *Cryptosporidium*, uranium, molybdenum).

6.1.2 | Regulation 7(3) deals with the situation where a private water supply provided by a private water supplier straddles the areas of one or more WSAs. In this situation those WSAs may decide that one of them shall carry out the monitoring function for that supply. The Minister of DoEHLG has the power to direct one of the WSAs to carry out the monitoring function for that supply.

6.1.3 | Each WSA has to ensure that the samples it takes are representative of the quality of drinking water consumed throughout the year and are equally distributed through the supply (regulation 7(7)). It also has to ensure (regulation 7(8)) that it complies with the specifications for the analysis of parameters specified in part 3 of the schedule to the Regulations. Detailed advice on analysis is provided in section 5 of this handbook.

6.2 Role of the EPA

6.2.1 | Regulation 7(12) requires EPA to supervise the performance of WSAs in respect of their monitoring functions and permits EPA to issue directions if necessary. Each WSA is required to submit its monitoring programme on private water supplies to EPA whenever EPA directs it to do so (regulation 7(5)). EPA may issue a legally binding direction (regulation 7(6)) to a WSA requiring it to amend its monitoring programme. EPA may also issue guidelines under regulation 7(11) on various matters relating to monitoring and it has done so in Section 3 of this handbook. A WSA must comply with any direction from the EPA and it commits an offence if it fails to comply (Regulations 7(13) and (14)). When there is such a failure, the EPA may apply to the High Court for an order (Regulations 7(15) and 18(1)) and it may bring a prosecution under regulation 22(1).

6.3 Role of private water suppliers

6.3.1 | The Regulations do not require private water suppliers to carry out any monitoring to assess whether their supplies comply with the standards and indicator values in the Regulations. This mandatory “compliance monitoring” function is carried out by WSAs. Although it is not a requirement of the Regulations, it is recommended

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that private water suppliers should consider carrying out appropriate operational monitoring of their raw water sources, treatment works and distribution systems (see sections 3 and 4 of this handbook).

7. Protection of Human Health

7.1 | Regulation 9 provides that where a private water supply is considered to be a risk to human health a WSA must take follow-up action in consultation and agreement with the HSE. The Regulation obliges a WSA, subject to the agreement of the HSE, to ensure that use of the relevant private water supply is prohibited or restricted and that consumers are informed promptly and given any necessary advice. The regulation requires the WSA to issue a Direction as it considers it necessary to the private water supplier requiring it to take measures necessary to prevent, limit, eliminate or abate the risk. Therefore each WSA must establish, and keep under review, appropriate contact arrangements with the HSE and its private water suppliers. A private water supplier commits an offence if it fails to comply with a Direction from a WSA (regulation 9(6)). Further advice from the EPA in relation to regulation 9(5) on the protection of human health is given in section 6 of this handbook.

8. Investigation of failures and remedial action

8.1 | Regulation 10(1) requires each WSA to ensure that each non-compliance with quality standards and indicator parameter values in the Regulations is immediately investigated by the private water supplier to determine the cause of the failure. This investigation should establish whether the non-compliance was due to the domestic distribution system or the maintenance of that system (see paragraph 12 of this section). Regulation 10(2) requires a private water supplier to inform the WSA as soon as it discovers non-compliance (for example through operational monitoring or breakdown of treatment) in accordance with any guidelines issued by the EPA (see section 6 of this handbook). Failure to notify the WSA is an offence under regulation 10(3).

8.2 | Regulation 10(4) specifies the intervention necessary for the purposes of remedial action. The WSA is required to ensure that remedial action is taken by the relevant private water supplier as soon as possible. However, the WSA must prioritise its interventions having regard to the extent to which the standards have been breached and human health put at risk. Regulation 10(4)(c) requires that within 14 days of

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receiving the monitoring results indicating a breach of a standard (not an indicator parameter value), the WSA must, subject to any departures in force (see paragraph 9 of this section), ensure that the private water supplier –

- ◆ takes the necessary remedial action to restore water quality and secure compliance with the standards in the Regulations; **the WSA may issue a direction if it considers it necessary;**
- ◆ prepare and submit a remedial action programme to the WSA for approval within 60 days; and
- ◆ implement it as soon as possible but not later than:
 - one year from the date of its approval by the WSA in relation to quality standards specified in Tables A (microbiological) and B (chemical) in part 1 of the schedule to the Regulations where a risk to human health arises, or
 - two years from the date of its approval by the WSA in relation to quality standards specified in Table B (chemical) in part 1 of the schedule to the Regulations, where a risk to human health does not arise.

8.3 | When there is a breach of an indicator parameter value, the WSA must consider whether the breach poses a risk to human health. The WSA must consult and agree with the HSE on whether there is such a risk and, if so, what action to take. If a risk to human health exists the WSA must, as it considers it necessary, require the relevant private water supplier to take remedial action to restore water quality and to submit and implement a remedial action programme within the time frame specified in paragraph 8.2.

8.4 | Under regulation 10(6), the WSA may amend a private water supplier's action programme and under regulation 10(7), the programme must include such interim measures as are appropriate taking into account any strategic water supply plan of the WSA for its functional area. Regulation 10(8) provides for the EPA to issue guidelines about the nature and timing of remedial, enforcement and other relevant action under this regulation. Private water suppliers are obliged under regulation 10(9) to inform consumers about the remedial action, unless the WSA considers the breach to be trivial in nature and extent. It is unlikely that the WSA will issue a direction if it considers the breach to be trivial.

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8.5 | Private water suppliers are required to maintain, and make available on request to WSA, a record of each incidence of failure to meet the standards and indicator parameter values which includes details of (Regulations 10(10) and (11)):

- ◆ the date of the incident;
- ◆ the extent and duration of the failure;
- ◆ the cause of the failure; and
- ◆ any complaint received arising from the failure.

8.6 | Regulation 10(12) makes it an offence for a private water supplier to fail to:

- ◆ comply with a direction from the WSA under regulation 10(4);
- ◆ inform consumers in accordance with regulation 10(9);
- ◆ maintain records for the purposes of regulation 10(10); and
- ◆ make a record available to the WSA on request under regulation 10(11).

9. Departures from the standards

9.1 | Regulation 11 provides for departures from the standards in table B (chemical parameters) in part 1 of the schedule to the Regulations. A departure is permission for a private water supplier to continue supplying water which breaches a standard whilst remedial action is being taken. The EPA may grant a departure on application by a WSA up to a maximum value determined by the EPA, and subject to agreement with the HSE, provided that the departure does not constitute a potential danger to human health and the water supply to the area cannot be maintained by other reasonable means.

9.2 | Regulation 11(3) specifies that the application for a departure shall contain the information specified by the EPA (see section 6 of this handbook). Regulation 11(4) requires that a departure granted by the EPA shall:

- ◆ be subject to such conditions as may be specified by the EPA;
- ◆ be for as short a period of time as possible and not exceed 3 years;

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- ◆ specify the matters set out in part 4 of the schedule to the Regulations, unless the EPA has determined that the non-compliance is trivial and the remedial action is completed within 30 days (but not if the failure occurred on more than 30 days during the previous 12 months); and
- ◆ be reviewed by the EPA before the end of the period to determine whether sufficient progress has been made.

9.3 | Regulations 11(6) and (7) provide for the EPA under specified circumstances and conditions to grant second and third departures each for a period not exceeding three years. Regulation 11(8) requires the EPA to notify the granting of all departures involving supplies exceeding 1,000 m³/d (more than 5,000 people) to the minister at the DoEHLG who in turn has to notify the European Commission.

9.4 | Regulation 11(9) requires a WSA which is granted a departure for a private water supply (other than one for a trivial breach) to:

- ◆ promptly inform the population supplied of the departure and its conditions; and
- ◆ advise particular population groups for which the departure could present a special risk (for example for a departure from the nitrate standard, advising mothers bottle feeding infants to use low nitrate bottled water instead of the water supply because of the risk of methaemoglobinaemia).

10. Enforcement by WSAs

10.1 | In addition to the functions outlined previously, WSAs now have significantly enhanced enforcement powers to ensure that private water suppliers comply with the requirements of the Regulations:

- ◆ regulation 16 enables a WSA to give legally binding directions to private water suppliers as are appropriate for fulfilling its functions and failure to comply with a direction is a prosecutable offence under regulation 22;
- ◆ regulation 18 provides for a WSA to obtain injunctive relief in the High Court when a private water supplier has failed to comply with a direction or other requirement – in effect an order from the Court to the private water supplier to comply;

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- ◆ regulation 19 provides for an authorised person from the WSA (or the EPA) to enter premises for the purpose of their functions under the Regulations and to bring on to the premises other persons and equipment to carry out such work as the authorised person considers necessary. Any person from the WSA (or the EPA) entering any premises connected with the private water supply would need to comply with all health and safety measures and would not interfere with the safe operation of any plant and equipment at the premises;
- ◆ regulation 12 provides for the WSA, after consultation with the private water supplier to give such assistance or support to that private water supplier in order to achieve satisfactory compliance with the standards and other requirements of the Regulations. Regulation 12(2) also provides for direct intervention by the WSA where a water supplier fails to comply with a direction. It is likely that a WSA would only use this as a last resort where direct and urgent intervention is necessary in the interests of human health. If the WSA uses this power it can recover its costs from the private water supplier as a simple contract debt; and
- ◆ regulation 13 enables the WSA to issue a legally binding direction to a private water supplier to ensure that they undertake specific measures in relation to the substances or materials used in the treatment or distribution of drinking water and also in relation to the efficiency of disinfection systems.

11. Records to be maintained by private water suppliers and WSAs

11.1 | Regulations 8(1) and 10(10) place specific record keeping obligations on private water suppliers. Regulation 8(1) provides for a WSA to direct a private water supplier to keep, and submit to the WSA, such records as the WSA may specify in relation to:

- ◆ the management and treatment of water supplies;
- ◆ the corrective action, and the other information required by regulation 10(10), taken following a non-compliance with the standards and values in part 1 of the schedule to the Regulations;
 - the date of the incident of failure to comply;
 - the extent and duration of the failure;

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- the cause of the failure;
 - the remedial action taken; and
 - any complaint received arising from the failure; and
- ◆ verification of the efficiency of disinfection in accordance with regulation 13(2).

11.2 | Regulation 8(2) requires the WSA to carry out, or arrange to carry out, such monitoring as it considers necessary to verify the information in the private water supplier's record. Under regulation 8(3), each WSA is required to maintain a register of each private water supply provided by each private water supplier which must include as a minimum (the WSA can direct a private water supplier to provide the information):

- ◆ the name and address of the private water supplier;
- ◆ the volume of water supplied in m³/d (or population);
- ◆ the type of water treatment;
- ◆ the source of the water supply; and
- ◆ the supply code allocated under the DWNMP, or any subsequently allocated code.

The WSA is required to keep the register at its principal office for inspection by any person during office hours and to provide a copy of an entry in the register to a person for whom it may charge the reasonable cost of that copy Regulations 8(7) and (8). Regulation 8(9) enables this register to be in electronic form provided a person can obtain a legible copy from it.

11.3 | Each WSA is required to keep the record of its monitoring of private water supplies (and public water supplies) at its principal office for inspection by any person during office hours and to provide a copy of an entry in the record to a person for which it may make a reasonable charge. The Minister of the DoEHLG has issued guidelines under regulation (9) (Circular letter WSP 6/09) requesting **WSAs to start putting their monitoring results on their websites** from July 2009. Access to the information should be from a prominent position of the home page on the website and the information should be presented in a simple user friendly way with a minimum of technical language. The information should be put on the website within one month of the results being available from the laboratory except that when the result indicates

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a failure to meet a standard or indicator parameter that result should be put on the website as soon as possible after the HSE has confirmed whether or not there is a potential risk to human health.

12. Duties in relation to water on premises

12.1 | Under regulation 6(1), a private water supplier is not in breach of its obligations under regulation 4(1) where any non-compliance with the standards or indicator parameter values is due to the domestic distribution system in premises or the maintenance of that system. It follows that when there is non-compliance in a sample taken from a consumer's tap, the private water supplier's investigation has to determine whether the failure was due to the quality of water supplied by the private water supplier or to the condition of the domestic distribution system.

12.2 | The owner of a premises where the water is supplied as part of a commercial or public activity (including but not limited to schools, hospitals and restaurants) is required by regulation 6(2) to maintain the domestic distribution system within the premises so that its condition does not cause, or risk, a failure of a standard or value in part 1 of the schedule to the Regulations. Where there has been a failure, or risk of a failure, in such premises, the WSA shall ensure, by direction if necessary, that the owner (or WSA) takes appropriate action to (regulation 6(3)):

- ◆ immediately prevent or restrict the supply as the WSA deems appropriate until the system is restored. Before taking this action, the WSA must take into account the risk to health an interruption to supply may cause and it should consult and agree the action with the HSE; and
- ◆ restore the system to the standard necessary to comply with the standards and values.

It is an offence for the owner of premises to fail to comply with these requirements.

12.3 | Where the non-compliance, or risk of non-compliance in premises where the water is not supplied as part of a commercial or public activity, the WSA must ensure under regulation 6(6) that:

- ◆ measures are taken to reduce or eliminate the risk, including advising the owners of any possible remedial action they can take; **or**

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- ◆ other measures are taken to reduce or eliminate the risk of not complying after supply, such as appropriate treatment to change the nature or properties of the water before it is supplied; **and**
- ◆ the consumers are informed of these measures and advised of any possible additional remedial action they should take.

12.4 | Regulation 19 provides for an authorised person from a WSA (or the EPA) to enter premises for the purpose of their functions under the Regulations and to bring on to the premises other persons and equipment to carry out such work as the authorised person considers necessary. A WSA may need to use this provision to enable it to comply with its duties under regulation 6.

13. Treatment, equipment and materials

13.1 | Regulation 13(1) requires each private water supplier to ensure that the substances and materials (and any impurities in them) used in the treatment or distribution of water at new installations do not remain in the water supplied in concentrations higher than necessary for their purpose of use and that they do not reduce the protection of health provided by the standards and other requirements of the Regulations.

13.2 | Private water suppliers must ensure when disinfecting a water supply that the efficiency of disinfection is verified and that the concentrations of disinfection by-products (such as trihalomethanes) are kept as low as possible without compromising disinfection (regulation 13(2)).

13.3 | The WSA can direct a private water supplier to take specific measures on the above matters and it is an offence for a private water supplier to fail to comply with a direction (Regulations 13(3) and (4)).

14. Audit of private water suppliers by WSAs

14.1 | Regulation 17(1) requires each WSA to audit the private water supplies made by private water suppliers to ensure that the provisions of the Regulations (standards, investigations and remedial action etc) are met by private water suppliers.

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15. Offences, prosecutions and penalties

15.1 Offences

15.1.1 | A private water supplier commits an offence under the Regulations if it fails to:

- ◆ comply with a direction from the WSA regarding its record keeping (regulation 8(6));
- ◆ comply with a direction from the WSA regarding the protection of human health (regulation 9(6));
- ◆ inform the WSA of a failure to meet the standards or values in tables A, B and C of part 1 of the schedule to the Regulations (regulation 10(3));
- ◆ comply with a direction from the WSA regarding an action programme (regulation 10(12(a)));
- ◆ inform consumers of the remedial action taken (regulation 10(12(b)));
- ◆ maintain records of each incidence of failure to meet the standards or values in part 1 of the schedule to the Regulations (regulation 10(12(c)));
- ◆ make the record of such a failure available to the WSA on request (regulation 10(12)(d));
- ◆ comply with a direction from the WSA regarding the use of substances and materials and the efficiency of disinfection (regulation 13(4)); and
- ◆ comply with a direction from the WSA about any matter it considers appropriate (regulation 16(2)).

15.1.2 | A person commits an offence under the Regulations if the person:

- ◆ contravenes the requirement to maintain the domestic distribution system within premises in a satisfactory condition (regulation 6(7)(a));
- ◆ fails to comply with a direction from a WSA regarding the domestic distribution system within premises (regulation 6(7)(b)); and

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- ◆ fails to allow an authorised person to enter premises, obstructs or impedes, gives false or misleading information to or fails to comply with a direction issued by an authorised person (regulation 19(3)).

15.2 Persecutions and Penalties

15.2.1 | Regulation 22(1) permits the WSA to bring a prosecution against a private water supplier or a person who has committed a summary offence under the Regulations. A person who commits an offence under the Regulations is liable to:

- ◆ on summary conviction, to a fine not exceeding 5,000 Euros, or imprisonment for a term not exceeding 3 months, or both; or
- ◆ on conviction on indictment, to a fine not exceeding 500,000 Euros, or imprisonment for a term not exceeding 3 years, or both.