
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 413

The Private Water Supplies Regulations (Northern Ireland) 2009

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—
- (a) the responsible person or persons;
 - (b) the supply concerned;
 - (c) the grounds for granting the authorisation;
 - (d) the parameters concerned, previous relevant monitoring results, and the maximum permissible values under the authorisation;
 - (e) the geographical area, the estimated quantity of water supplied each day, the number of persons supplied and whether or not any food-production undertaking is affected;
 - (f) an appropriate monitoring scheme to be undertaken by either the Department or the responsible person or persons, with an increased monitoring frequency where necessary;
 - (g) a summary of the plan for the necessary remedial action, including a timetable for the work and an estimate of the cost and provisions for reviewing progress; and
 - (h) the duration of the authorisation.
- (4) If the Department grants an authorisation, and action is taken in accordance with the timetable of works specified in the authorisation, the Department shall not serve a notice under article 119 of the 2006 Order concerning the matters specified in the authorisation without first amending or revoking the authorisation.
- (5) The duration of the authorisation shall be as short as possible and in any event shall not exceed three years.
- (6) The Department shall ensure that people affected are promptly informed of the authorisation and its conditions and, where necessary, ensure that advice is given to particular groups for which the authorisation could present a special risk.
- (7) The Department shall inform the European Commission within two months of any authorisation concerning an individual private supply exceeding 1000m³ a day as an average or serving more than 5000 persons.
- (8) Towards the end of the duration of the authorisation the Department shall review it to determine whether sufficient progress has been made. If the Department considers that sufficient progress has not been made, it may grant a second authorisation. If the Department intends to grant a second authorisation, this shall be communicated to the European Commission along with the results of the review.
- (9) Subject to paragraph (8), the Department may grant a second authorisation for up to three years.
- (10) If towards the end of the duration of the second period of authorisation the Department considers that sufficient progress has not been made the Department may grant a third period of authorisation but only if—
- (a) the Department considers that there are exceptional circumstances to justify doing so; and
 - (b) the European Commission confirms its approval.

(11) The Department may revoke or amend any authorisation at any time, and in particular may revoke or amend it if the timetable for remedial action has not been adhered to.

Notices

19.—(1) The Department shall serve a notice under this regulation on one or more responsible persons instead of a notice under article 119 of the 2006 Order if—

- (a) the private supply is a risk to human health; and
- (b) serving the notice will not create a greater risk to human health than not serving it.

(2) The notice shall prohibit the supply of water, or restrict what the water may be used for and shall also specify—

- (a) the responsible person or persons;
- (b) the supply concerned;
- (c) the grounds for the notice;
- (d) the parameters concerned;
- (e) previous relevant monitoring results;
- (f) the geographical area, the estimated quantity of water supplied each day and whether or not any food production undertaking is affected; and
- (g) any other action that the Department considers necessary to protect human health.

(3) The Department shall ensure that consumers are promptly informed of the service of the notice and shall provide any necessary advice.

(4) The notice may be subject to conditions and may be amended by further notice at any time.

(5) The Department shall revoke the notice as soon as there is no longer a risk to human health.

(6) It is an offence to fail to comply with a notice served under this regulation.

Appeals

20.—(1) Any person served with a notice under regulation 19 who is aggrieved by that notice may appeal in writing to the Appeals Commission within 28 days of the date of the notice and shall specify the grounds for appeal.

(2) A notice under regulation 19 shall have effect pending determination of the appeal.

Powers of the Appeals Commission

21. On an appeal against a notice served under regulation 19, the Appeals Commission may either cancel the notice or confirm it, with or without modification.