



Peter Brown
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Dear Peter

Information Letter 2/2013
Authorisation of different standards

1. This letter provides Scottish Water with an important update about the granting of authorisations of different standards.
2. Regulation 20 of the Water Quality Regulations¹ allows Scottish Ministers (in practice the Drinking Water Quality Regulator) to grant an authorisation or **Authorised Departure** from the provisions of Part III (wholesomeness) of the Regulations upon receipt of a written request from Scottish Water. An authorisation will only be granted for parameters that do not constitute a risk to human health and for a period of time (usually no longer than 3 years) while remedial action is taken. Regulation 20 further sets out the specific conditions in which Scottish Ministers can grant an authorisation.
3. Following a recent European Commission (EC) opinion, it is necessary to limit or modify the conditions pertaining to the exercise of power to grant an authorised departure in the future.
4. Article 9 of the EC Drinking Water Directive (DWD)² refers to an authorised departure as a derogation. The intent of a derogation at the time of the introduction of the DWD (25 December 2003) was as a transposition arrangement to allow a period of time for countries in the European Union to improve the quality of all their drinking water supplies. The EC has recently indicated that it considers that the power to grant derogations has time expired. However, the EC has recognised that there may be exceptional circumstances where in very specific cases derogations could be granted in the future. However the EC is undecided on what might constitute an exceptional circumstance and will be providing a further update to member states in November 2013.

¹ The Water Supply (Water Quality) (Scotland) Regulations 2001.

² Council Directive 98/83/EC on the quality of water intended for human consumption

5. As an interim measure, Scottish Water should be aware that the DWQR does not intend to grant any authorisations unless the application contains compelling information about an exceptional circumstance. Where a supply is unwholesome, the DWQR is likely to use other powers available to secure remedial action. This may be, for example, accepting an undertaking under Section 76E of the Water (Scotland) Act 1980.
6. The DWQR's general policy in response to failures of the standards is set out in its enforcement policy, which can be found on the DWQR's website at: <http://www.dwqr.org.uk/about-us/enforcement.htm>
7. Any queries about this letter should be addressed to Philip Anderson at Philip.anderson@scotland.gsi.gov.uk

Yours sincerely



Philip Anderson