

The Regulatory Framework

- **The Regulatory Framework for public water supplies in England and Wales is set out in the Water Industry Act 1991 (the Act).**
- **The Act defines the powers and duties under which the Drinking Water Inspectorate operates and also the duties of the water companies.**
- **The associated Regulations are available via the web site.**
- **Key aspects of the framework are briefly outlined below, to assist in the understanding of this report.**

Public Water Supplies

A public water supply is a supply provided by a water company, appointed by the Director General of Water Services, for the purposes of drinking, washing, cooking or food production. The Director General can also grant a licence to a company to supply water in part of another water company's supply area. This is referred to as an 'inset appointment'.

The Secretary of State for Environment, Food and Rural Affairs and the National Assembly for Wales (The Authorities) are responsible under the Act for regulating the quality of public drinking water supplies. These Authorities have appointed technical assessors, in the form of the Drinking Water Inspectorate, to act on their behalf. They have also delegated specific powers to the Chief Inspector to enforce water quality standards and initiate prosecutions.

Water companies have a duty under the Act to supply water that is wholesome at the time of supply, i.e. when water passes from the water company's pipe into the consumer's pipe. 'Wholesomeness' is defined by reference to standards and other requirements set out in the Water Supply (Water Quality) Regulations 1989 (the 1989 Regulations). However, water companies are not held responsible for any deterioration in the quality of the water within a consumer's premises, except in the case of copper, lead or zinc. If the standards for these metals are likely to be exceeded in the water supplied to the cold tap in the kitchen, then the water company must consider further treatment of the water to reduce the risk of the water becoming unwholesome. This measure is intended primarily to reduce exposure of consumers to lead.

The 1989 Regulations incorporate all the standards set out in the 1980 EC Drinking Water Directive on the quality of water intended for human consumption. They also include some specific national standards and set out requirements for monitoring drinking water quality, water treatment, and the provision of information. The 1989 Regulations also govern the use of water treatment chemicals and drinking water system construction products.

A new EC 'Drinking Water Directive' came into force on 25 December 1998 and its requirements have been incorporated into the new Water Supply (Water Quality) Regulations 2000 (the new Regulations). These Regulations apply to water companies whose area of supply is wholly or mainly in England. The National Assembly for Wales adopted similar new Regulations at the end of 2001 and these apply to water companies whose area of supply is wholly or mainly in Wales. The majority of the new Regulations come into force at the end of December 2003. Until then the 1989 Regulations remain in force.

Some parts of the new Regulations, which are not directly related to the new Directive, came into force in England on 1 January 2001 and in Wales on 1 January 2002. These relate to the legally-enforceable treatment standard for *Cryptosporidium*, and the associated monitoring requirements to check compliance with the standard. Water companies were also required to submit to the Authorities programmes of work designed to secure compliance with the new and revised standards that come into force on 25 December 2003.

Section 70 of the Act makes it a criminal offence for a water company to supply water that is unfit for human consumption. However, the Act provides a defence for the company if it can show that it:

- ❑ had no reasonable grounds for suspecting that the water would be used for human consumption; or
- ❑ took all reasonable steps and exercised all due diligence for securing that the water was fit for human consumption on leaving its pipes, or was not used for human consumption.

It is for the courts to decide whether water is unfit but, in general, water that causes illness on consumption, or by its appearance, taste or smell is such that people cannot reasonably be expected to drink it, is likely to be deemed unfit.

Water companies are responsible for monitoring the quality of their supplies. This 'self-monitoring' role is subject to checks by local authorities and the Inspectorate. One of the main tasks of the Inspectorate is a rolling programme of continuous technical audit to ensure that water companies are meeting all their regulatory obligations. Reports of these audits, where relevant, are available on the web site at: www.dwi.gov.uk.

Water companies must make all results of regulatory sampling available to the general public via their public record. Anyone is entitled to information relating to the quality of his or her own water supply, free of charge. Water companies must also produce an annual report on drinking water quality for the local authorities in their supply area.

Water companies must notify the Authorities of any event, which by reason of its effect on the quality or sufficiency of drinking water, may give rise to a significant risk to consumers' health. The Inspectorate investigates all such notifications and, in some cases, the investigation could result in the water company being prosecuted for supplying water unfit for human consumption. The results and recommendations arising from the Inspectorate's investigations are made public.

Enforcement of Standards

Section 18 of the Act requires the Authorities to take enforcement action for any breach of wholesomeness standards, monitoring and treatment, and/or records and information requirements of the Regulations. However, enforcement action is not taken forward if the breach is:

- ❑ deemed to be trivial, or
- ❑ unlikely to recur, or
- ❑ if the water company has taken immediate remedial action to prevent a recurrence, or
- ❑ if the water company has submitted a legally-binding programme of work to achieve compliance within an acceptable timescale.

Further information on the enforcement process is available under the Regulations Section on the web site.

Private Water Supplies

Private supplies are defined in the Act as any supplies of water that are not provided by a statutorily – appointed water company. The Act places responsibility on local authorities to keep themselves informed about the wholesomeness and sufficiency of water supplies in their respective areas, including private water supplies. The definition of wholesomeness in the Water Supply (Water Quality) Regulations 1989 applies equally to public and private supplies and is incorporated in the Private Water Supplies Regulations 1991, which are implemented by the local authorities. New Regulations on private water supplies will be required to implement the new EC Drinking Water Directive.

Further information on the roles of local authorities, the Inspectorate and water companies in respect of the Private Water Supply Regulations can be found in previous Annual Reports and on the web site.