

Information note on Regulation 9 (Wales)



Background

Regulation 9 applies to all private water supplies which supply:

- a) an average daily volume of water of 10m³ or more for domestic purposes (Note. where volume cannot be ascertained this equates approximately with 50 persons or more); or
- b) water as part of a commercial or public activity.

Public activity

Supplies that form part of a public activity are those serving any premises where the water is made available for the public for human consumption (a definition of water intended for human consumption can be found in the Information Note on regulation 2 and 3). This includes public buildings, examples of which are given in the appendix to DWI Information letter 10/2004. The following list is illustrative and is not exhaustive:

Medical	Hospital
	GP surgery
	Dentist surgery
	Health centre
	Nursing homes
	Retirement /residential home for the elderly
Education	School/college
	Further education
	University
	Nursery schools
Hostelries	Cafes
	Pubs
	Restaurants
	Hotels and inns
	Guest houses
	Banquet/function
	Wine bar
	Campsite
Exhibition	Museum
	Art gallery
	Exhibition centre
	Conference centre

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Sports	Sports ground/stadium
	Leisure centre
	Swimming pool
	Health clubs
	Tourist attractions
	Night clubs
	Theatre/concert halls
	Ice rink
	Cinema
	Historic building/stately homes
Miscellaneous	Hairdresser
	Beauty salon
	Prison/detention centre
	Community centre
	Job centre
	Housing centre

Other situations where water is supplied as part of public activity include those where a supply of drinking water is offered to the general public at festivals, fairs and other temporary events (where the water is also used as part of a commercial activity such as food operations). Private water supplies that supply water fountains, including those which form part of a heritage attraction (e.g. ancient springs and grottos) for human consumption also fall within the scope of a public activity for the purpose of regulation 9.

Commercial activity

Supplies where the water is being used as part of a commercial activity include the following, where the stated criteria are applicable:

a) Food production

This includes all premises where the water is used in any food-production undertaking for the manufacture, processing, preservation or marketing of products or substances intended for human consumption unless (a) in accordance with Regulation (EC) No. 853/2004 of The European Parliament and of the Council on hygiene of foodstuffs and/or (b) the competent authority (in this case the FSA) are satisfied that the quality of water cannot affect the wholesomeness of the foodstuff in its finished form. FSA guidance confirms that potable water must be used on the final washing and cleaning of fresh fruit and vegetables that may be eaten raw, but clean water (see <http://www.food.gov.uk/enforcement/enforcework/food-law/guidance-enforcement/private-water-supply-guidance>) may be used for initial washing of crops.

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Clean water may also be used in a dairy for washing animals, in cooling systems, cleaning and washdown equipment as long as it does not affect the wholesomeness of the foodstuff in its finished form.

In some cases water may be transported from its source to one or more locations (depots, factories etc.) via bottles, containers or tankers in different local authority areas, where the water is used as part of a commercial activity. In these cases all local authorities concerned should work in a collaborative capacity to ensure that all necessary requirements of the Regulations are met.

NB.

If water from a private water supply is used in food production for anything other than **primary** food production (the growing of, harvesting or extraction of raw materials for other industries, including, milking and farmed animal production prior to slaughter) then it **must** satisfy the Private Water Supplies (England) Regulations 2016. Supplies serving milking parlours where the water is used for washing down purposes only does not constitute a Regulation 9 supply. This is covered by food law and the regulating body is the Food Standards Agency. *For further details see Information Note for regulation 3 (scope):*

- b) Businesses relying on a private supply of water where it is used for domestic purposes. These include the following:
- Hotels, guest houses, restaurants, cafes and bed and breakfast, including Airbnb establishments, including single private dwellings where B&B is available;
 - Any holiday let accommodation;
 - Caravan sites, camp sites and similar facilities, whether seasonal or open all year;
 - Registered child minders.

The following examples are where water is not being supplied as part of a commercial activity so would **not** be within scope of regulation 9:

- Supplies to properties or housing that are provided as part of a job, where the occupants of the property have special rights of occupation and maintenance that are akin to ownership, e.g. tied cottage, lifetime tenancy/occupation rights. These are likely to fall within the scope of regulation 10 or 11.
- Agricultural tenancies – where the provision of accommodation is not the primary purpose of the tenancy and it is generally long term with maintenance obligations akin to ownership. These are likely to fall within the scope of regulation 10 or 11.

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- Foster homes – financial compensation is provided rather than payment (provision of a home rather than a service). These supplies fall within the scope of regulation 10 or 11.
- Single rented dwellings. These fall within the scope of regulation 11.
- Social housing offered by councils or not-for-profit housing associations. These are likely to fall within the scope of regulation 10 or 11.
- Temporary events not on a private water supply (mains supply, tankers, and bowsers). In these cases local authorities should ensure the organisers comply with BS8551.

Is a private supply serving a business or commercial organisation a Regulation 9 supply?

A business office, or any organisation used for commercial purposes is not, in most cases, deemed a public building and unless the water being consumed is part of a commercial activity, the supply is not a regulation 9 supply. If the business workers are consuming the private supply for any domestic purposes, without being charged a fee (for example, where beverages are made in a staff rest area or free canteen) the supply is subject to the requirements of regulation 10 or 11 of the Private Water Supplies (Wales) Regulations 2017 (unless the volume consumed is >10m³ per day). Furthermore, the employer has a duty under health and safety law to provide employees and visitors with water for drinking and sanitation facilities.

If the business is selling products where the water from a private water supply is part of an ingredient, e.g. beverages, which are being sold for a fee in a staff canteen, then the requirements of regulation 9 of the Private Water Supplies (Wales) Regulations 2017 do apply.

If a business is making available water that is derived from a private water supply via a commercial vending machine for a fee, then regulation 9 applies.

Where a single domestic dwellings (SDD), or any other premises, that is served by a private water supply is used as a base or registered office from which a commercial activity is operated, regulation 9 **may** apply. Examples of these types of regulation 9 supplies include:

- Where the commercial activity operated from the SDD uses the water in any food production undertaking for the manufacture, processing, preservation or marketing of products or substances intended for human consumption, and/or

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where the water is used for domestic purposes by members of the public. For example, a dwelling offering tea room facilities to the public.

- Where a SDD is used as part of a business and where employees of the business rely on the kitchen and bathroom facilities to consume water for domestic purposes AND the volume of water supplying the SDD is more than 10m³ per day. (if it is less than this volume it is a Regulation 10 supply). An example of this type of arrangement might be kennels or stables, where workers use the kitchen of the SDD as a rest room.
- Where a SDD is being used for child minding as part of a registered business and the children rely on the kitchen and bathroom facilities to use water for domestic purposes.

Monitoring

Monitoring of regulation 9 supplies must be carried out in accordance with Schedule 2 of the Regulations and to carry out any additional monitoring that the risk assessment (see Regulation 6) shows to be necessary. Further guidance on monitoring frequencies is set out in the Guidance Note for Regulation 7 (Monitoring).