



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Net Zero, Energy and Transport Committee

**Tuesday 6 December 2022**

**Session 6**



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Pàrlamaid na h-Alba

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**NET ZERO, ENERGY AND TRANSPORT COMMITTEE**

**32<sup>nd</sup> Meeting 2022, Session 6**

**CONVENER**

Edward Mountain (Highlands and Islands) (Con)

**DEPUTY CONVENER**

\*Fiona Hyslop (Linlithgow) (SNP)

**COMMITTEE MEMBERS**

\*Jackie Dunbar (Aberdeen Donside) (SNP)

\*Liam Kerr (North East Scotland) (Con)

\*Monica Lennon (Central Scotland) (Lab)

\*Ash Regan (Edinburgh Eastern) (SNP)

\*Mark Ruskell (Mid Scotland and Fife) (Green)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Rosemary Greenhill (Scottish Government)

Màiri McAllan (Minister for Environment and Land Reform)

Luigi Pedreschi (Scottish Government)

**CLERK TO THE COMMITTEE**

Peter McGrath

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



# Scottish Parliament

## Net Zero, Energy and Transport Committee

Tuesday 6 December 2022

*[The Deputy Convener opened the meeting at 09:47]*

### Subordinate Legislation

#### Public Water Supplies (Scotland) Amendment Regulations 2022 [Draft]

**The Deputy Convener (Fiona Hyslop):** Good morning, and welcome to the 32nd meeting in 2022 of the Net Zero, Energy and Transport Committee. We have apologies from the convener, Edward Mountain.

Our first item is consideration of a draft Scottish statutory instrument. I welcome Màiri McAllan, Minister for Environment and Land Reform, who is attending on behalf of the Cabinet Secretary for Net Zero, Energy and Transport. I also welcome the Scottish Government officials who are joining us today: Rosemary Greenhill, who is regulatory team leader, Luigi Pedreschi, who is a solicitor, and Claire Phelan, who is a policy officer. I thank you all for attending.

The instrument was laid under the affirmative procedure, which means that the Parliament must approve it before it comes into force. Following the evidence session, the committee will be invited at the next agenda item to consider a motion to recommend approval of the instrument. I remind everyone that the officials can speak under this item but not in the debate that follows. I invite the minister to make a short opening statement.

**The Minister for Environment and Land Reform (Màiri McAllan):** I am very pleased to be here to speak to the draft Public Water Supplies (Scotland) Amendment Regulations 2022. Scotland's drinking water is renowned all over the world for its excellent quality. We tend to take that for granted, and very few of us appreciate how much effort is needed to treat water in the first instance and then to monitor its quality to ensure that it is safe to drink from the tap. In this instance, safe means that it is free from substances that constitute a potential danger to human health.

In the interest of public health, we are and will continue to be relentless in ensuring that drinking water continues to meet high standards, and the draft regulations that are before the committee seek to do that. The main purpose of the regulations is to amend the Public Water Supplies

(Scotland) Regulations 2014 to implement the health-based standards of the European Union's recast drinking water directive for Scottish Water-supplied drinking water. The standards are recommended by the World Health Organization.

The EU's recast drinking water directive, which came into force on 12 January 2021, is a long and complicated directive that is designed to protect drinking water from source to tap, to put in monitoring arrangements for emerging pollutants, to drive up efficiencies and to address access to water issues. We are taking a phased and proportionate approach to alignment with the directive, because some of its requirements will rely on actions that are still to be taken by the European Commission or will not apply until a later date. It is a vast directive and there are different timescales and actions that are required of the EC before all the provisions can be brought in. Bearing that in mind, and after considerable work, particularly by the officials who are with me, we are moving forward with the health-based standards.

The regulations update the standards that will apply to water that is supplied by Scottish Water. They include new chemical parameters for substances that are commonly known as PFAS—perfluoroalkyl and polyfluoroalkyl substances—or forever chemicals, which are endocrine disruptors. PFAS are extensively used in products that have non-stick or water-repellent qualities, such as waterproof jackets, cardboard for food containers and sun protection factor creams. The regulations will require Scottish Water to check for the presence of those chemicals in drinking water that it supplies, to ensure that it does not contain them at concentrations that would breach the limits that the regulations specify, which are in line with the WHO's recommendation.

There are some additional changes that the regulations will make. We are updating the existing values of substances that Scottish Water needs to monitor in drinking water and the methods that it will use to assess the microbiological, chemical and indicator parameters. The regulations will enable Scottish Water, with the agreement of the Drinking Water Quality Regulator for Scotland, to deviate from minimum sampling frequencies for drinking water. We could deviate before, but the regulations will make the requirements in that regard more proportionate and, therefore, we hope, provide for a more efficient approach. The regulations introduce the requirement that Scottish Water maintains an operational monitoring programme; again, there was monitoring before, but it will be enhanced.

As I said, the recast drinking water directive is long and complex, but we are taking action now to

implement the WHO recommendations that we can implement, and we are the first country in the United Kingdom to do so.

We are also taking the opportunity to make some minor changes, outwith the recast directive. For example, the draft regulations update the frequency of sampling in relation to water that is supplied by tanker, in response to Scottish Water's increasing use of mobile tankers. We are implementing that provision following consultation with Scottish Water.

The committee will wish to note that 1 January 2023 has been selected as the coming into force date. That date was selected because Scottish Water's annual monitoring programme begins on 1 January, so the approach will allow a full monitoring record for 2023. Again, we decided on the date following consultation with Scottish Water.

The approach that is being taken to align with the EU's recast drinking water directive is in the best interests of Scotland. It ensures that the excellent standards of Scottish drinking water to which we have become accustomed are maintained. We are doing that by prioritising the health-based WHO-recommended improvements of the directive, which we can now make.

**The Deputy Convener:** We move to questions. I have a few questions, then I will bring in Mark Ruskell and Liam Kerr.

Scottish Water gave evidence to the committee on its annual report. There might be costs involved in the implementation of the SSI. Will you explain those costs and how Scottish Water will manage them within its existing or proposed budget?

**Màiri McAllan:** We have estimated £10 million as being the upper limit of the cost of what we seek to implement; we estimate it to be less than £10 million. The costs arise in relation to the storage of chemicals at water treatment works, so that the standard in relation to chlorate and chlorite can be achieved.

There will be some additional sampling costs. However, taking into account all that and the very stretched position with regard to public finance, that £10 million is money well spent, given that it is so directly linked to the maintenance of the highest-quality drinking water, to which we have become accustomed in Scotland.

**The Deputy Convener:** What are other countries in the UK and the EU doing in relation to the recast directive?

**Màiri McAllan:** We are certainly the first UK country to move to adopt the standards. I suspect that other nations in the UK are considering how they will do it. I cannot speak for the pace at which they are doing it, but we certainly hope that they

will adopt the standards, because, as we were discussing before we came to the committee, water is not something that respects boundaries—we all share an environment and we all want the highest standards. Having said that, I mentioned that it is a long, complex directive with some requirements that do not come into place until the late 2020s. Therefore, member states and non-member states such as us have had to take a considerable time to consider the directive and plan for its implementation. I suspect that member states are grappling with that. However, it is certainly positive and worthy of pursuing.

**The Deputy Convener:** Are there implications for this SSI in relation to the Retained EU Law (Revocation and Reform) Bill?

**Màiri McAllan:** Yes, there are. I will give my policy view, and then I might hand over to Luigi Pedreschi to provide the legal perspective. These regulations, and the 2014 regulations that they amend, constitute retained EU law. Therefore, although the Government's policy position on that has been made clear by my colleague Angus Robertson—we want the bill to be revoked or, at the very least, we want devolved aspects to be carved out of it—on the basis of where we are now, the regulations constitute retained EU law and, without actions to preserve them, the UK's bill as proposed would fundamentally undermine that. Luigi, do you want to add to that?

**Luigi Pedreschi (Scottish Government):** I do not think that there is anything to add to that—you have explained it.

**Mark Ruskell (Mid Scotland and Fife) (Green):** It is very welcome to see the on-going alignment with EU law. Stakeholder engagement was one of the issues raised in the Constitution, Europe, External Affairs and Culture Committee. Obviously, stakeholder engagement in Europe is extremely detailed throughout the policy development process and the development of regulations. Now that we are out of that system, minister, how have we attempted to replicate that stakeholder engagement at an appropriate level with the adoption of the regulations? Indeed, how are you involving stakeholders with regard to what might come forward through the directive over time that we might wish to align to? We have lost that architecture of really in-depth stakeholder engagement.

**Màiri McAllan:** You are quite right. That is one of the things that we would never want to see a diminution of as a result of having left the EU, so we are keen to retain such consultation and have sought to do so in this process.

The changes that we are discussing have an operational impact on Scottish Water rather than on the public. People will turn on their taps and

water will flow, and they will look to us and to Scottish Water to ensure that the water is of the highest possible standard. Therefore, we focused mainly on consulting Scottish Water and the Drinking Water Quality Regulator for Scotland. We shared a draft version of the regulations with them, and they were able to point us to some suggested improvements, particularly with regard to aligning the coming-into-force date with Scottish Water's reporting period.

We also undertook a series of project workshops, as I think we called them, with a suite of stakeholders on the directive itself and how we best align with it. Again, that involved Scottish Water, the Drinking Water Quality Regulator, the Water Industry Commission for Scotland, and the Scottish Environment Protection Agency. I do not think that I have forgotten anyone. That was quite an involved process.

However, I compare that with something that might come down the road from the directive: work on private water supplies. That is a much larger piece of work that will have a much greater impact on the public. Therefore, I will look to undertake consultation again, but in a slightly different way that is more about public consultation, because the work will impact the public a great deal more.

10:00

**Liam Kerr (North East Scotland) (Con):** Good morning minister. You referred to a proposed cost of up to £10 million. If that comes out of the capital budget, what impact will that have on other capital projects that Scottish Water might have in the pipeline? Is there a move to increase Scottish Water's budget to accommodate that extra cost of up to £10 million?

**Màiri McAllan:** That will be part of the discussion and consultation that I told Mark Ruskell about and am having with Scottish Water. My view at the moment is that that is affordable within current budgets.

**Liam Kerr:** You said that the standards will come in on 1 January 2023. How quickly will Scottish Water have to carry out the remedial work to accommodate that? Does that have to be done by 1 January 2023? That is a very short lead time. Does it mean incurring the up to £10 million cost before 1 January 2023?

**Màiri McAllan:** I might have to get back to you about exactly when the costs will be incurred. I said that those costs will come from storage and can update you about exactly when they will be incurred. Given some of the conversations that she has had with Scottish Water about the work that it will have to do to implement the standard, I will hand over to Rosemary Greenhill.

**Rosemary Greenhill (Scottish Government):**

The standards come into effect on 1 January and Scottish Water will be expected to meet them. Scottish Water has had a lot of warning about this. The directive was in draft form in 2018, so Scottish Water has seen this coming and has had time to prepare.

Scottish Water has been able very quickly to address the particular chlorite storage standards that the minister mentioned. The figure of £10 million is the upper limit, but it is likely to cost much less. Scottish Water will be expected to meet that cost.

**Liam Kerr:** If the directive has been in draft form for a long time and Scottish Water has had time to prepare for it, one would assume that Scottish Water has been asked if it will be able to accommodate that by 1 January. Has that question been asked?

**Rosemary Greenhill:** This is a public health measure and it is in people's interests that it be carried out. Scottish Water has always recognised public health as a major driver and knows that drinking water must meet those standards.

**Màiri McAllan:** Scottish Water suggested to us that 1 January would be the best date on which to begin and we have consulted throughout the process. Scottish Water has not flagged up any implementation issues. We have collaborated to reach this point.

**Liam Kerr:** That is reassuring. I have no further questions.

**The Deputy Convener:** Do any other members have questions?

We move to agenda item 2, which is formal consideration of motion S6M-06537. I invite the minister to speak to and move the motion in the name of the Cabinet Secretary for Net Zero, Energy and Transport.

*Motion moved,*

That the Net Zero, Energy and Transport Committee recommends that the Public Water Supplies (Scotland) Amendment Regulations 2022 [draft] be approved.—[*Màiri McAllan*]

**The Deputy Convener:** No members wish to contribute to the debate, and the minister has nothing further to add.

*Motion agreed to.*

**The Deputy Convener:** The committee will report on the outcome of the instrument in due course. I invite the committee to delegate authority to the convener to approve a draft report for publication.

Thank you, minister.

**Greenhouse Gas Emissions Trading  
Scheme (Amendment) (No 2) Order 2022  
(SI 2022/1173)**

**The Deputy Convener:** Agenda item 3 is consideration of two negative instruments.

The Greenhouse Gas Emissions Trading Scheme (Amendment) (No 2) Order 2022 was laid under the negative procedure, which means that its provisions will come into force unless the Parliament agrees to a motion to annul them. No motions to annul have been laid.

Do members have any comments on the instrument?

**Mark Ruskell:** I have a point of clarification. I am interested in the provision that allows, in effect, a free allocation under the emissions trading scheme if heat is going to another source so that, instead of heat being wasted, it is taken out of the industrial process and used somewhere else. Are there particular standards for that? Does the heat have to go to housing or to other industrial processes? Are there any criteria around that? I do not have any further comments on the SI beyond seeking that clarification, which it would be useful to receive in some form.

**The Deputy Convener:** I suggest that that might be something that we can deal with offline by asking the Scottish Parliament information centre to give us an update. I do not think that it necessarily affects the substance of the instrument and the committee procedures in relation to its consideration.

As there are no further comments and there is no motion to annul, I invite the committee to agree that it does not wish to make any further recommendation in relation to the instrument. Are we agreed?

**Members indicated agreement.**

**Producer Responsibility Obligations  
(Packaging Waste) Amendment (Scotland)  
Regulations 2022 (SSI 2022/330)**

**The Deputy Convener:** This instrument, too, was laid under the negative procedure and no motion to annul has been lodged. As there are no comments, I invite the committee to agree that it does not wish to make any further recommendation in relation to the instrument. Are we agreed?

**Members indicated agreement.**

**The Deputy Convener:** Thank you all.

*Meeting closed at 10:06.*



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