

# SL(5)126 - The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) (Amendment) Regulations 2017

## Background and Purpose

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These **Regulations** amend the **Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015** (S.I. 2015/1867 (W. 274)) ("the 2015 Regulations").

The amendments—

- (a) implement the amended monitoring requirements for spring and bottled water provided for by Commission Directive (EU) 2015/1787. The amendments remove the requirement for food authorities to conduct check and audit monitoring of spring water and bottled drinking water (*regulations 8 and 14*);
- (b) provide that natural mineral water and spring water that has been subjected to fluoride removal treatment or ozone-enriched air treatment in a non-EEA State may be sold in Wales. Such water may only be sold if those treatments have been authorised by the responsible authority in that non-EEA State and the Food Standards Agency or responsible authority in another part of the UK or EEA has determined that the procedure for authorising the treatment in that State is equivalent to the requirements under Articles 1 to 3 of Regulation (EU) 115/2010 (*regulations 3, 9 and 10*);
- (c) clarify that natural mineral water and spring water extracted outside Wales can be sold in Wales if it complies with the requirements of the 2015 Regulations in relation to exploitation (in the case of natural mineral water), treatments and additions, and bottling and labelling requirements (*regulations 4 and 7*);
- (d) clarify that the rules on treatments and additions do not prevent spring water from being used in the manufacture of soft drinks (*regulation 5*);
- (e) prohibit the advertising of spring water in a way that is liable to cause the water to be confused with a natural mineral water, and prohibiting the use of "mineral water", "dŵr mwynol", or its equivalent in any other language, in the advertising of spring water (*regulation 6*);
- (f) correct two errors in the Welsh language text of the 2015 Regulations (*regulations 11 and 12(b)*);
- (g) correct various other errors in the 2015 Regulations (*regulations 12(a) and 13*); and
- (h) clarify that the exemption period from monitoring for certain radiological substances lasts 5 years (*regulation 15*).

## Procedure

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Negative

## Technical Scrutiny

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No points are identified for reporting under Standing Order 21.2 in respect of this instrument.



## Merits Scrutiny

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No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

## Implications arising from exiting the European Union

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These Regulations form part of “EU-derived domestic legislation” under clause 2 of the European Union (Withdrawal) Bill (“the Bill”) as introduced, therefore these Regulations will be retained as domestic law and will continue to have effect in Wales after exit day.

The Bill gives the Welsh Ministers power to modify these Regulations in order to deal with deficiencies arising from withdrawal, subject to certain limitations (for example, the Welsh Ministers will not be able to use this power to do something that is inconsistent with modifications to “retained direct EU legislation” made by UK Ministers under the Bill).

The Bill will not give the Welsh Ministers (or the National Assembly for Wales) power to modify any retained direct EU legislation. Power to modify all retained direct EU legislation is given to UK Ministers; this includes the power to modify retained direct EU legislation in devolved areas without the need for the consent of the National Assembly for Wales or the Welsh Ministers.

Therefore, if UK Ministers use their powers to modify retained direct EU legislation, the power of the Welsh Ministers to modify these Regulations will be limited so that the Welsh Ministers cannot do anything that is inconsistent with the modification made by UK Ministers.

## Government Response

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No government response is required.

## Committee consideration

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The committee considered the instrument and was content. The Committee reports to the Assembly to highlight the points identified as a result of the UK exiting the European Union.

