

# SL(5)221 – The Water Supply (Water Quality) Regulations 2018

## Background and Purpose

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These Regulations will revoke and replace the Water Supply (Water Quality) Regulations 2010. The Regulations transpose the additional requirements specified by Commission Directive (EU) 2015/1787, which aligns with the World Health Organisation principles for the risk based sampling and analysis of drinking water supply, reflecting scientific and technical progress in the protection of public health.

The Regulations are primarily concerned with the quality of water supplied by water undertakers whose areas are wholly or mainly in Wales (and water supply licensees using the supply systems of such undertakers) for drinking, washing, cooking and food preparation, and for food production, and with arrangements for the publication of information about water quality.

## Procedure

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Negative.

## Technical Scrutiny

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One point is identified for reporting under Standing Order 21.2 in respect of this instrument.

### **1. Standing Order 21.2(ix) – the instrument is not made in both English and Welsh).**

These Regulations have been made in English only. The explanatory memorandum says that they will apply to the operation of water companies providing drinking water wholly or mainly in Wales. However, they also apply in parts of England and are therefore laid simultaneously in Parliament and the National Assembly for Wales as required by section 59(4) of the Government of Wales Act 2006. No reason is specified in the explanatory memorandum as to why these regulations are made in English only.

## Merits Scrutiny

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One point is identified for reporting under Standing Order 21.3 in respect of this instrument.

### **1. Standing Order 21.3 – the instrument inappropriately implements European Union legislation**

These Regulations directly transpose the requirements of Council Directive 98/83/EC (the Drinking Water Directive (DWD)) as amended by Commission Directive (EU) 2015/1787. The transposition deadline for the 2015 Directive was 27 October 2017. This deadline has not been met and these regulations are laid some 8 months after this deadline. In chapter 2 of the explanatory memorandum the Welsh Government give the following explanation for the delay in implementation:

*“The regulations impact on water undertakers who have responsibilities in both England and Wales. Following engagement with the water companies, officials agreed to align the Welsh set of Regulations with the English Regulations; to ensure water companies were not working to two different sets of Regulations with differing requirements, which would impact on their operational efficiency and removes duplication of work within the affected water undertakers. Officials therefore agreed to work to Defra’s timeline to ensure that any changes made to the English Regulations were also included in the Welsh Regulations.*”



*Defra's timeline has been delayed due to a number of circumstances including delays in their consultation process. If the Welsh Regulations were laid before the final amendments to the English Regulations were made, the regulations would once again differ in specifics for no policy reason. This would not be in the interests of the water undertakers impacted by these Regulations. Defra accept that the delay in laying these regulations is due to the English timeline slipping."*

## Implications arising from exiting the European Union

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These Regulations are made partly under section 2(2) of the European Communities Act 1972. These Regulations arise from EU obligations under EU Commission Directive 2015/1787 in respect of the quality of water intended for domestic purposes or for use in food production. These Regulations will form part of retained EU law after exit day.

## Government Response

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These Regulations are subject to negative resolution procedure in the National Assembly for Wales and in both Houses of the UK Parliament. Because the Regulations will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually.

In terms of late transposition, the border arrangement with England on water means that there would have been a disproportionate impact on the water companies if our regulations did not align with the UK Government in relation to these Regulations (for no policy reason). The UK Government as member state noted the delay in their timelines and the impacts this would have on Wales implementing these Regulations.

## Committee Consideration

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The Committee considered the instrument at its meeting on 11 June along with the Government response. The Committee reports to the Assembly in line with the technical and merits points above.

