
WELSH STATUTORY INSTRUMENTS

2015 No. 1867

The Natural Mineral Water, Spring Water and
Bottled Drinking Water (Wales) Regulations 2015

PART 1

Introductory

Title, commencement and application

1.—(1) The title of these Regulations is the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015.

(2) These Regulations come into force on 28 November 2015 and apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Food Safety Act 1990;

“advertisement” (“*hysbyseb*”) means a representation in any form in connection with a trade or business in order to promote the supply of goods, and “advertise” (“*hysbysebu*”) is to be construed accordingly;

“the Agency” (“*yr Asiantaeth*”) means the Food Standards Agency;

“bottle” (“*potel*”) where used as a noun, means a closed container of any kind in which water is sold for drinking by humans or from which water sold for drinking by humans is derived, and “bottle” (“*potelu*”), where used as a verb, and cognate expressions, are to be construed accordingly;

“Directive 98/83” (“*Cyfarwyddeb 98/83*”) means Council Directive [98/83/EC](#) on the quality of water intended for human consumption⁽¹⁾;

“Directive 2003/40” (“*Cyfarwyddeb 2003/40*”) means Commission Directive [2003/40/EC](#) establishing the list, concentration limits and labelling requirements for the constituents of natural mineral waters and the conditions for using ozone-enriched air for the treatment of natural mineral waters and spring waters⁽²⁾;

“Directive 2009/54” (“*Cyfarwyddeb 2009/54*”) means Directive [2009/54/EC](#) of the European Parliament and of the Council on the exploitation and marketing of natural mineral waters⁽³⁾;

“Directive 2013/51” (“*Cyfarwyddeb 2013/51*”) means Council Directive 2013/51/EURATOM laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption⁽⁴⁾;

(1) OJ No L 330, 5.12.1998 p 32, last amended by Commission Directive (EU) 2015/1787 (OJ No L 260 7.10.2015, p 6).

(2) OJ No L 126, 22.5.2003, p 34.

(3) OJ No L 164, 26.6.2009, p 45.

(4) OJ No L 296, 7.11.2013, p 12.

“drinking water” (“*dŵr yfed*”) means water which is intended for sale for drinking by humans other than—

- (a) natural mineral water, or
- (b) water intended to be labelled and sold as “spring water”, “*dŵr ffynnon*”, or its equivalent in any other language;

“effervescent natural mineral water” (“*dŵr mwynol naturiol eferw*”) means natural mineral water which, at source or after bottling, gives off carbon dioxide spontaneously and in a clearly visible manner under normal conditions of temperature and pressure;

“fluoride removal treatment” (“*triniaeth tynnu fflworid*”) means—

- (a) a treatment of natural mineral water or water intended to be bottled and labelled as “spring water”, “*dŵr ffynnon*”, or its equivalent in any other language, with activated alumina in order to remove fluoride which is authorised in accordance with regulations 9(1)(a)(iii) or 15(a)(iii) and Schedule 2, or
- (b) in the case of water brought into Wales from another part of the United Kingdom or from another EEA state, a treatment which complies with Articles 1 to 3 of Regulation 115/2010;

“label” (“*label*”) means any tag, brand, mark, pictorial or other descriptive matter, which is written, printed, stencilled, marked, embossed or impressed on, or attached to the bottle of water, and “labelled” (“*wedi'i labelu*”) and “labelling” (“*labelu*”) are to be construed accordingly;

“natural mineral water” (“*dŵr mwynol naturiol*”) means water which—

- (a) is microbiologically wholesome within the meaning of Article 5 of Directive 2009/54,
- (b) originates in an underground water table or deposit and emerges from a spring tapped at one or more natural or bore exits,
- (c) can be clearly distinguished from drinking water on account of the following characteristics having been preserved intact because of the underground origin of the water, which has been protected from all risk of pollution—
 - (i) its nature, which is characterised by its mineral content, trace elements or other constituents and, where appropriate, by certain effects, and
 - (ii) its original purity, and
- (d) is for the time being recognised pursuant to and in accordance with regulation 4;

“ozone-enriched air treatment” (“*triniaeth aer a gyfoethogir ag osôn*”) means—

- (a) a treatment of natural mineral water or water intended to be bottled and labelled as “spring water”, “*dŵr ffynnon*”, or its equivalent in any other language, with ozone-enriched air which is authorised in accordance with regulations 9(1)(a)(iv) or 15(a)(iv) and Schedule 3, or
- (b) in the case of water brought into Wales from other parts of the United Kingdom or from another EEA State, a treatment which complies with Article 5 of Directive 2003/40, as implemented in that part of the United Kingdom or that EEA State;

“parameter” (“*paramedr*”) means a property, element, organism or substance listed in the second column of any table in Part 2, Part 3 or Part 4 of Schedule 7;

“Regulation 115/2010” (“*Rheoliad 115/2010*”) means Commission Regulation (EU) No 115/2010 laying down the conditions for use of activated alumina for the removal of fluoride from natural mineral waters and spring waters⁽⁵⁾; and

(5) OJ No L 37, 10.2.2010, p 13.

“sell” (“*gwerthu*”) includes possess for sale and offer, expose or advertise for sale, and “sale” (“*gwerthiant*”) is to be construed accordingly.

(2) Expressions used in these Regulations that are also used in Directive 98/83, Directive 2009/54, Regulation 115/2010 or Directive 2013/51 have the same meaning in these Regulations as they have in those Directives or that Regulation.

(3) References to the Annexes to Directive 98/83, Directive 2003/40, Directive 2009/54, Regulation 115/2010 and Directive 2013/51 are references to those Annexes as amended from time to time.

(4) Any reference in these Regulations to the labelling of a bottle includes labelling done before any water is bottled and labelling after bottling.

Exemptions

- 3.—(1) These Regulations do not apply to any water which—
- (a) is a medicinal product within the meaning of Directive 2001/83 of the European Parliament and of the Council on the Community code relating to medicinal products for human use⁽⁶⁾;
 - (b) is a natural mineral water which is used at source for curative purposes in thermal or hydromineral establishments;
 - (c) is not intended for sale for drinking by humans; or
 - (d) is a natural mineral water intended for export to a country other than an EEA State.
- (2) These Regulations do not apply to packaged ice portions intended for use in cooling food.

PART 2

Natural mineral water

Recognition as natural mineral water

4.—(1) Natural mineral water may only be sold as natural mineral water if it is recognised in accordance with paragraph (2).

- (2) Water is recognised as natural mineral water where—
- (a) in the case of water extracted from the ground in Wales, a food authority grants recognition in accordance with Part 1 of Schedule 1;
 - (b) in the case of water extracted from the ground in another part of the United Kingdom, the responsible authority of that part of the United Kingdom recognises it pursuant to Directive 2009/54;
 - (c) in the case of water extracted from the ground in an EEA State other than the United Kingdom, a responsible authority of that EEA State recognises it pursuant to Directive 2009/54;
 - (d) in the case of water extracted from the ground in a country other than an EEA State—
 - (i) the Agency grants recognition in accordance with Part 2 of Schedule 1; or
 - (ii) it has an equivalent recognition, given by a responsible authority of—
 - (aa) another part of the United Kingdom; or

⁽⁶⁾ OJ No L 311, 28.11.2001 p 67, last amended by Directive 2012/26/EU (OJ No L 299, 27.10.2012, p 1).

(bb) an EEA State other than the United Kingdom.

(3) The publication in the Official Journal of the European Union of the name of any water as a natural mineral water recognised in the European Union for the purposes of Directive 2009/54 is, except where recognition is granted in accordance with Schedule 1, conclusive evidence that water is recognised for the purposes of that Directive.

Declining to grant or withdrawing recognition

5.—(1) Where, in relation to any water that has been recognised under regulation 4(2)(a) or 4(2)(d)(i), it is found that—

- (a) by analysis in accordance with Part 3 of Schedule 1, the requirements of paragraph 10(c) of that Part are not met;
- (b) the requirements of Schedule 4 are not met; or
- (c) the content of the water is not in accordance with paragraph 1(c) of Part 1 or, as the case may be, paragraph 5(c) of Part 2 of Schedule 1,

the food authority or, as the case may be, the Agency may withdraw that recognition until such time as the requirements concerned are met.

(2) Where the food authority or, as the case may be, the Agency declines to grant or withdraws recognition of a water, the person who exploits or wishes to exploit the spring from which that water emerges or, if different, the person who owns the land on which that spring is situated, may within 6 months of being notified of the decision, appeal against it to a person appointed for the purpose by the Agency.

(3) The appointed person must consider the appeal and any representations made by the food authority or the Agency, as appropriate, and within 3 months report in writing with a recommended course of action to the Agency.

(4) The Agency must either—

- (a) confirm the decision together with the reasons; or
- (b) direct the food authority to grant or restore, or itself restore, as appropriate, recognition of the water in question.

(5) Where a food authority is directed by the Agency under paragraph (4)(b) to grant or restore recognition, it must immediately comply with that direction.

Application to withdraw recognition

6. A person who exploits a spring from which water is extracted which is recognised as natural mineral water in accordance with regulation 4(2)(a) or 4(2)(d)(i), may apply to the food authority or the Agency, as appropriate, to have that recognition withdrawn.

Notification of changes

7. A food authority must immediately notify the Agency if—

- (a) it grants, restores or withdraws recognition of a natural mineral water; or
- (b) it is notified of any change to the trade description of a natural mineral water or to the name of a spring from which natural mineral water has been extracted.

Exploitation of natural mineral water springs

8.—(1) No person may exploit a spring for the purpose of marketing the water from it as natural mineral water unless—

- (a) the water extracted from that spring is natural mineral water;
- (b) the food authority of the area in which the spring is located has given permission for that spring to be exploited; and
- (c) the requirements of Schedule 4 are met.

(2) Where it is found during exploitation that natural mineral water is polluted and that bottling of the water would contravene paragraphs 6, 7 or 8 of Schedule 4, no person may exploit the spring from which the water is extracted until the cause of the pollution is eradicated and the bottling of the water would comply with those paragraphs.

Treatments and additions for natural mineral water

9.—(1) No person may subject natural mineral water in its state at source to—

- (a) any treatment other than—
 - (i) the separation of its unstable elements, such as iron and sulphur compounds, by filtration or decanting, whether or not preceded by oxygenation, in so far as the treatment does not alter the composition of the water as regards the essential constituents which give it its properties;
 - (ii) the total or partial elimination of free carbon dioxide by exclusively physical methods;
 - (iii) a fluoride removal treatment which is authorised in accordance with Schedule 2; or
 - (iv) an ozone-enriched air oxidation treatment which is authorised in accordance with Schedule 3;
- (b) any addition other than the introduction or the re-introduction of carbon dioxide to produce effervescent natural mineral water; or
- (c) any disinfection treatment by whatever means, or, subject to paragraph (1)(b), the addition of bacteriostatic elements or any other treatment likely to change the viable colony count of the natural mineral water.

(2) Paragraph (1) does not prevent the use of natural mineral water in the manufacture of soft drinks.

Bottling of natural mineral water

10.—(1) No person may bottle natural mineral water—

- (a) unless the requirements of Schedule 4 are met;
- (b) in a container other than a container which is fitted with closures designed to avoid any possibility of adulteration or contamination; and
- (c) which, at the time of bottling, contains any substance listed in Part 1 of Schedule 5 at a level which exceeds the maximum limit specified in relation to that substance in that Schedule.

(2) The methods used for detection of the substances listed in Part 1 of Schedule 5 must conform to the performance characteristics for analysis specified in Part 2 of Schedule 5.

Labelling of natural mineral water

11.—(1) No person may bottle natural mineral water and label it with—

- (a) a trade description which includes the name of a locality, hamlet or other place, unless that trade description refers to a natural mineral water, the spring of which is exploited at the place indicated by that name, and is not misleading as regards the place of exploitation of the spring;

- (b) a trade description which is different from the name of the spring or the place of its exploitation, unless the name of the spring or the place of exploitation is also labelled on the bottle, using letters at least one and a half times the height and width of the largest of the letters used for that trade description;
 - (c) any indication, designation, trade mark, brand name, picture or other sign, whether figurative or not, the use of which suggests a characteristic which the water does not possess, in particular as regards its origin, the date of authorisation to exploit the spring, the results of analyses or any similar references to guarantees of authenticity;
 - (d) any indication other than those specified in sub-paragraphs (f) and (g), attributing to the natural mineral water properties relating to the prevention, treatment or cure of a human illness;
 - (e) any indication listed in the first column of the Table in Schedule 6, except where the natural mineral water meets the criterion so listed and corresponds to the indication;
 - (f) the indication “may be diuretic”, “gall fod yn ddiwretig”, or “may be laxative”, “gall fod yn garthydd”, or the equivalent in any other language, unless the natural mineral water has been assessed as possessing the property attributed by the indication in accordance with physico-chemical analysis and pharmacological, physiological or clinical examination as appropriate; or
 - (g) the indication “stimulates digestion”, “mae’n ysgogi treuliad”, or “may facilitate the hepato-biliary functions”, “gall hyrwyddo’r swyddogaethau hepato-bustlog”, or the equivalent in any other language, unless the natural mineral water has been assessed as possessing the property attributed by the indication in accordance with the physico-chemical analysis and pharmacological, physiological and clinical examination.
- (2) No person may bottle natural mineral water and label it with a sales description other than—
- (a) “natural mineral water”; or
 - (b) in the case of an effervescent natural mineral water, one of the following, as appropriate—
 - (i) “naturally carbonated natural mineral water” to describe water whose content of carbon dioxide from the spring after decanting, if any, and bottling is the same as at source, taking into account where appropriate, the reintroduction of a quantity of carbon dioxide from the same water table or deposit equivalent to that released in the course of those operations and subject to the usual technical tolerances;
 - (ii) “natural mineral water fortified with gas from the spring” to describe water whose content of carbon dioxide from the same water table or the same deposit after decanting, if any, and bottling is greater than that established at source; or
 - (iii) “carbonated natural mineral water” to describe water to which has been added carbon dioxide of an origin other than the water table or deposit from which the water comes;
 - (c) nothing in sub-paragraph (a) prevents a person from using the words “dŵr mwynol naturiol” in addition to the words “natural mineral water”;
 - (d) nothing in sub-paragraph (b) prevents the use of the words “dŵr mwynol naturiol wedi’i garboneiddio’n naturiol” in addition to “naturally carbonated natural mineral water”, “dŵr mwynol naturiol wedi’i gryfhau â nwy o’r ffynnon” in addition to “natural mineral water fortified with gas from the spring”, “dŵr mwynol naturiol wedi’i garboneiddio” in addition to “carbonated natural mineral water”; and
 - (e) nothing in sub-paragraphs (a), (b), (c) or (d) prevents the use of equivalent words in any other language in addition to Welsh and English.
- (3) No person may bottle natural mineral water unless the bottle is labelled with—

- (a) a statement of analytical composition indicating the characteristic constituents of the water;
- (b) the name of the place where the spring is exploited and the name of the spring;
- (c) where the water has undergone the treatment of total or partial elimination of free carbon dioxide by exclusively physical methods, the indication “fully de-carbonated” or “partially de-carbonated”, as appropriate;
- (d) where the water has undergone an ozone-enriched air treatment, the words “water subjected to an authorised ozone-enriched air oxidation technique”, which must appear in proximity to the analytical composition of characteristic constituents;
- (e) where its fluoride concentration exceeds 1.5 mg/l—
 - (i) the words “contains more than 1.5 mg/l of fluoride; not suitable for regular consumption by infants and children under 7 years of age”, which must appear in immediate proximity to the trade name and in clearly visible characters; and
 - (ii) the actual fluoride content in relation to the physico-chemical composition, which must be included within the statement referred to in paragraph (3)(a);
- (f) nothing in sub-paragraph (c) prevents the use of the indication “cwbl ddad-garbonedig” in addition to “fully de-carbonated”, or “rhannol ddad-garbonedig” in addition to “partially de-carbonated”;
- (g) nothing in sub-paragraph (d) prevents the use of the words “dŵr wedi ei drin â thechneg awdurdodedig i’w ocsideiddio ag aer a gyfoethogir ag osôn” in addition to “water subjected to an authorised ozone-enriched air oxidation technique”;
- (h) nothing in sub-paragraph (e)(i) prevents the use of the words “yn cynnwys mwy na 1.5 mg/l o fflworid; nid yw’n addas i’w yfed yn rheolaidd gan blant bach a phlant o dan 7 oed” in addition to “contains more than 1.5 mg/l of fluoride; not suitable for regular consumption by infants and children under 7 years of age”; and
- (i) nothing in sub-paragraphs (c), (d), (e)(i), (f), (g) and (h) prevents the use of equivalent words in any other language in addition to Welsh and English.

Advertising of natural mineral water

12.—(1) Where, in accordance with regulation 11(1)(b) a bottle containing natural mineral water is required to be labelled with the name of the spring or the place of its exploitation—

- (a) the same requirement also applies to any written advertisement for that natural mineral water; and
- (b) in any other advertisement, at least equivalent prominence must be given to the place of exploitation or the name of the spring as is given to the trade description.

(2) No person may advertise natural mineral water in contravention of paragraph (1).

(3) No person may advertise natural mineral water under any indication, designation, trade mark, brand name, picture or other sign, whether figurative or not, the use of which suggests a characteristic which the water does not possess, in particular as regards its origin, the date of authorisation to exploit it, the results of analyses or any similar references to guarantees of authenticity.

Sale of natural mineral water

13.—(1) No person may sell water which is bottled and labelled “natural mineral water”, “dŵr mwynol naturiol”, or its equivalent in any other language, unless that water is natural mineral water recognised in accordance with regulation 4(2).

(2) No person may sell bottled natural mineral water if it—

- (a) has been extracted from a spring which is exploited in contravention of regulation 8;
 - (b) has been subjected to any treatment or addition in contravention of regulation 9;
 - (c) is bottled in contravention of regulation 10;
 - (d) is labelled in contravention of regulation 11; or
 - (e) is advertised in contravention of regulation 12.
- (3) No person may sell bottled natural mineral water—
- (a) which contains—
 - (i) parasites or pathogenic micro-organisms;
 - (ii) *Escherichia coli* or other coliforms and faecal streptococci in any 250ml sample examined;
 - (iii) sporulated sulphite-reducing anaerobes in any 50ml sample examined; or
 - (iv) *Pseudomonas aeruginosa* in any 250ml sample examined;
 - (b) where the total colony count of the water at the source from which that water was taken does not comply with paragraph 7 of Schedule 4;
 - (c) where the revivable total colony count of that water is in excess of that which would result from the normal increase in the bacterial count which it had at source; or
 - (d) where that water contains any organoleptic defect.
- (4) No person may sell natural mineral water from the same spring under more than one trade description.

PART 3

Water intended to be sold as “spring water” or “dŵr ffynnon”

Exploitation of springs and bottling of water intended to be labelled and sold as “spring water” or “dŵr ffynnon”

14.—(1) No person may bottle water intended to be labelled and sold as “spring water”, “dŵr ffynnon”, or its equivalent in any other language, unless—

- (a) the water has been extracted from a spring and is bottled at source;
- (b) the water is intended for human consumption in its natural state;
- (c) the requirements of Schedule 4 are met; and
- (d) the water meets the requirements of Schedule 7.

(2) Where it is found during exploitation that water from a spring is polluted and that bottling of the water would contravene paragraphs 6, 7 or 8 of Schedule 4, no person may exploit the spring from which the water is extracted until the cause of the pollution is eradicated and the bottling of the water would comply with those paragraphs.

Treatments and additions for water intended to be labelled and sold as “spring water” or “dŵr ffynnon”

15. No person may subject water intended to be labelled and sold as “spring water”, “dŵr ffynnon”, or its equivalent in any other language, in its state at source to—

- (a) any treatment, other than—

- (i) the separation of its unstable elements, such as iron and sulphur compounds, by filtration or decanting, whether or not preceded by oxygenation, in so far as the treatment does not alter the composition of the water as regards the essential constituents which give it its properties;
 - (ii) the total or partial elimination of free carbon dioxide by exclusively physical methods;
 - (iii) a fluoride removal treatment which is authorised in accordance with Schedule 2; or
 - (iv) an ozone-enriched air treatment which is authorised in accordance with Schedule 3; or
- or
- (b) any addition other than the introduction or the re-introduction of carbon dioxide; or
 - (c) any disinfection treatment by whatever means, or, subject to sub-paragraph (b), the addition of bacteriostatic elements, or any other treatment likely to change the viable colony count of the water.

Labelling of water as “spring water” or “dŵr ffynnon”

16.—(1) No person may label a bottle of water as “spring water”, “dŵr ffynnon”, or its equivalent in any other language, unless the water contained in it—

- (a) meets the requirements of regulation 14(1); and
- (b) if treated, has undergone a treatment or addition permitted under regulation 15.

(2) If a bottle of water is labelled as “spring water”, “dŵr ffynnon”, or its equivalent in any other language, no person may label that bottle with a trade description which—

- (a) includes the name of a locality, hamlet or other place, unless that trade description refers to water, the spring of which is exploited at the place indicated by that name, and is not misleading as regards the place of exploitation of the spring; or
- (b) is different from the name of the spring or the place of its exploitation unless the name of the spring or the place of exploitation is also labelled on the bottle, using letters at least one and a half times the height and width of the largest of the letters used for that trade description.

(3) No person may label a bottle of water as “spring water”, “dŵr ffynnon”, or its equivalent in any other language, unless the bottle is also labelled with—

- (a) the name of the place where the spring is exploited;
- (b) the name of the spring;
- (c) where the water has undergone an ozone-enriched air treatment, the words “water subjected to an authorised ozone-enriched air oxidation technique”, which must appear in proximity to the particulars referred to in sub-paragraphs (a) and (b);
- (d) nothing in sub-paragraph (c) prevents the use of the words “dŵr wedi ei drin â thechneg awdurdodedig i’w ocsideiddio ag aer a gyfoethogir ag osôn” in addition to “water subjected to an authorised ozone-enriched air oxidation technique”; and
- (e) nothing in sub-paragraphs (c) or (d) prevents the use of equivalent words in any other language in addition to Welsh and English.

Advertising of water as “spring water” or “dŵr ffynnon”

17.—(1) Where, in accordance with regulation 16(2)(b), a bottle of water is required to be labelled with the name of the spring or its place of exploitation in addition to a trade description—

- (a) the same requirement also applies to any written advertisement for that water; and

(b) in any other advertisement, at least equivalent prominence must be given to the place of exploitation or the name of the spring as is given to the trade description.

(2) No person may advertise a bottle of water as “spring water”, “dŵr ffynnon”, or its equivalent in any other language, in contravention of paragraph (1).

Sale of water as “spring water” or “dŵr ffynnon”

18.—(1) No person may sell water which is bottled or labelled as “spring water”, “dŵr ffynnon”, or its equivalent in any other language, if it—

- (a) is bottled in contravention of regulation 14(1);
- (b) has been subjected to a treatment or addition in contravention of regulation 15;
- (c) is labelled in contravention of regulation 16; or
- (d) is advertised in contravention of regulation 17.

(2) No person may sell water from the same spring as “spring water”, “dŵr ffynnon”, or its equivalent in any other language, under more than one trade description.

PART 4

Bottled drinking water

Bottling of drinking water

19. No person may bottle drinking water unless that water meets the requirements of Schedule 7.

Labelling of bottled drinking water

20. No person may bottle drinking water and label it with—

- (a) a designation, proprietary name, trade mark, brand name, illustration or other sign, whether emblematic or not, the use of which is liable to cause confusion of the drinking water with a natural mineral water, or
- (b) the description “mineral water”, “dŵr mwynol”, or its equivalent in any other language.

Advertising of bottled drinking water

21. No person may advertise bottled drinking water under—

- (a) a designation, proprietary name, trade mark, brand name, illustration or other sign, whether emblematic or not, the use of which is liable to cause confusion of the water with a natural mineral water, or
- (b) the description “mineral water”, “dŵr mwynol”, or its equivalent in any other language.

Sale of bottled drinking water

22. No person may sell bottled drinking water which is—

- (a) bottled in contravention of regulation 19;
- (b) labelled in contravention of regulation 20; or
- (c) advertised in contravention of regulation 21.

PART 5

Monitoring and sampling

CHAPTER 1

Natural mineral water

Monitoring of natural mineral water

23. In the case of natural mineral water, each food authority must carry out periodic checks to ensure that—

- (a) the composition, temperature and other essential characteristics of the water remain stable within the limits of natural fluctuation;
- (b) without prejudice to paragraph (a), the composition, temperature and other essential characteristics of the water are unaffected by any variations in the rate of flow;
- (c) the viable colony count at source (before the water is subjected to any treatment) is reasonably constant, taking into account the qualitative and quantitative composition of the water considered in the recognition of the water and whether it continues to satisfy the requirements of Part 1 of Schedule 1; and
- (d) the requirements of Schedule 4 are met in relation to the water.

CHAPTER 2

Water bottled and labelled as “spring water” or “dŵr ffynnon” and bottled drinking water

Monitoring of water bottled and labelled as “spring water” or “dŵr ffynnon” and bottled drinking water

24.—(1) In the case of water bottled and labelled as “spring water”, “dŵr ffynnon”, or its equivalent in any other language, and bottled drinking water, each food authority must carry out regular monitoring of the quality of the water to check that—

- (a) it satisfies the requirements of Directive 98/83 and in particular complies with the parametric values set in accordance with Schedule 7; and
 - (b) where disinfection forms part of the preparation or distribution of bottled drinking water, the disinfection treatment applied is efficient and any contamination from disinfection by-products is kept as low as possible without compromising the disinfection.
- (2) In order to comply with paragraph (1), each food authority must carry out—
- (a) monitoring in accordance with Schedule 8 to check whether the water complies with the relevant parametric values specified in Parts 2 and 3 of Schedule 7; and
 - (b) monitoring in accordance with Schedule 9 to check whether the water complies with the relevant parametric values specified in Part 4 of Schedule 7.

(3) Each food authority must carry out additional monitoring, on a case-by-case basis, in relation to any property, element, substance or organism other than a parameter specified in Schedule 7, if the food authority has reason to suspect that it may be present in the water concerned in an amount or number which constitutes a potential danger to human health.

Samples and analysis

25.—(1) For the purpose of monitoring water bottled and labelled as “spring water”, “dŵr ffynnon”, or its equivalent in any other language, and bottled drinking water, each food authority must carry out—

- (a) sampling and analysis in accordance with Schedule 10 to check compliance with the parametric values specified in Parts 2 and 3 of Schedule 7; and
 - (b) sampling and analysis in accordance with Schedule 11 to check compliance with the parametric value for indicative dose specified in Part 4 of Schedule 7.
- (2) Each food authority must take samples at the point at which the water is bottled.

Remedial action

26.—(1) If a food authority determines that water bottled and labelled as “spring water”, “dŵr ffynnon”, or its equivalent in any other language, or bottled drinking water, does not comply with the parametric concentrations or values specified in Schedule 7, the food authority must—

- (a) immediately investigate the non-compliance in order to identify the cause;
- (b) assess whether the non-compliance poses a risk to human health which requires action;
- (c) require the business operator to take remedial action as soon as possible to restore the quality of the water where that is necessary to protect human health;
- (d) in respect of any parameter specified in Parts 2 and 3 of Schedule 7, notify the general public of the remedial action taken, unless the food authority considers that non-compliance with the parametric value is trivial; and
- (e) in respect of any parameter specified in Part 4 of Schedule 7, notify the general public of the risks and remedial action taken and advise the general public on any additional precautionary measures that may be needed for the protection of human health in respect of radioactive substances.

(2) If water bottled and labelled as “spring water”, “dŵr ffynnon”, or its equivalent in any other language, or bottled drinking water, constitutes a potential danger to human health, irrespective of whether it meets the relevant parametric values in Schedule 7, the food authority must—

- (a) prohibit or restrict the supply of that water in its area or take such other action as is necessary to protect human health; and
- (b) inform the general public promptly of that fact and provide advice where necessary.

(3) A food authority is not required to prohibit or restrict the supply of water under paragraph (2) (a) if it considers that such action will give rise to an unacceptable risk to human health.

CHAPTER 3

Treatments

Monitoring of certain treatments

27.—(1) Each food authority must carry out periodic checks on any fluoride removal treatment which it has authorised to ensure that the requirements of paragraph 3 of Schedule 2 continue to be satisfied.

(2) Each food authority must carry out periodic checks on any ozone-enriched air treatment which it has authorised to ensure that the requirements of paragraph 4 of Schedule 3 continue to be satisfied.

CHAPTER 4

Samples

General

28. The food authority must ensure that each sample is representative of the quality of the water concerned consumed throughout the year in which the sample is taken.

Delivery

29.—(1) An authorised officer of a food authority who has procured a sample under section 29 of the Act and is required to give part of that sample to the owner in accordance with regulation 7(3)(c) of the Food Safety (Sampling and Qualifications) (Wales) Regulations 2013(7) may deliver that sample—

- (a) directly to the owner or the owner’s agent; or
- (b) by registered post or recorded delivery service.

(2) If, after reasonable enquiry, the authorised officer is unable to ascertain the name and address of the owner, the authorised officer may retain the sample.

(3) In this regulation, “owner” has the same meaning as in the Food Safety (Sampling and Qualifications) (Wales) Regulations 2013.

Notification

30.—(1) An authorised officer of a food authority who has procured a sample of water under section 29 of the Act for the purpose of analysis by a public analyst must serve notice in accordance with paragraph (2) if it appears that the water was exploited or bottled by a person (other than the owner) having a name and an address in the United Kingdom displayed on the bottle.

(2) The authorised officer must, within 3 days of procuring the sample, send to that person a notice informing them—

- (a) that the sample has been procured by the officer; and
- (b) where the sample was taken or, as the case may be, from who it was purchased.

(3) Paragraph (1) does not apply if the authorised officer decides not to have the sample analysed.

Analysis by the Government Chemist

31.—(1) Paragraphs (2) to (6) apply where a part of a sample procured under section 29 of the Act has been submitted for analysis and another part of the sample has been retained in accordance with regulation 7(3)(e) of the Food Safety (Sampling and Qualifications) (Wales) Regulations 2013 and—

- (a) an improvement notice has been served on a person under section 10(1) of the Act, as applied and modified by regulation 33, as read with Schedule 12, for a contravention of a provision of these Regulations in connection with that sample;
- (b) an appeal against that improvement notice has been made by that person to the magistrates’ court; and
- (c) the authorised officer intends to adduce as evidence the result of the analysis mentioned above.

(2) An authorised officer may send the retained part of the sample to the Government Chemist for analysis but must send it—

- (a) if requested by the magistrates’ court; or
- (b) subject to paragraph (6), if requested by the recipient of the improvement notice.

(3) The Government Chemist must analyse, or direct a food analyst to analyse, the part of the sample sent under paragraph (2) and send to the authorised officer a Government Chemist’s certificate of analysis.

(7) [S.I. 2013/479 \(W. 55\)](#), amended by [S.I. 2013/2493 \(W. 242\)](#).

(4) Any certificate sent by the Government Chemist must be signed by or on behalf of the Government Chemist, but the analysis may be carried out by a person under the direction of the person who signs the certificate.

(5) On receipt of the certificate the authorised officer must, as soon as is reasonably practicable, supply a copy of it to the magistrates' court and to the recipient of the improvement notice.

(6) Where a request is made under paragraph (2)(b), the authorised officer may request payment of a fee specified in writing from the recipient of the improvement notice to defray some or all of the Government Chemist's charges for performing the functions under paragraph (3).

(7) Where a notice is served under paragraph (6) and the recipient of the improvement notice refuses to pay the fee specified in the notice, the authorised officer may refuse to comply with the request made under paragraph (2)(b).

PART 6

Enforcement and miscellaneous provisions

Enforcement

32. Each food authority must execute and enforce these Regulations in its area.

Application of the Act: improvement notices

33.—(1) The provisions of section 10 of the Act specified in column 1 of Table 1 of Schedule 12 apply for the purpose of these Regulations, with the modifications specified in column 2 of that table to enable an authorised officer of a food authority to serve an improvement notice on any person who is failing to comply with regulations 8 to 22 of these Regulations or a provision of Regulation 115/2010 mentioned in column 2 of Table 1 of Schedule 12.

(2) Paragraph (1) is without prejudice to the application of section 10 of the Act for purposes other than those specified in paragraph (1).

(3) An authorised officer of a food authority must not serve an improvement notice under section 10(1) of the Act, as applied and modified in accordance with paragraph (1), if—

- (a) the improvement notice would relate to water bottled and labelled before 28 November 2015; and
- (b) the matters constituting the alleged contravention would not have constituted an offence under the Regulations listed in regulation 37.

(4) If water bottled and labelled as “spring water”, “dŵr ffynnon”, or its equivalent in any other language, or bottled drinking water, does not meet the requirements of paragraph 1(c) of Part 1 of Schedule 7, an authorised officer of a food authority must not serve an improvement notice under section 10(1) of the Act, as applied and modified in accordance with paragraph (1), if—

- (a) the water in question was bottled or sold in an EEA State other than the United Kingdom; and
- (b) the water complied with the law in that EEA State when it was bottled or sold.

Application of the Act: powers of entry

34.—(1) The provisions of section 32 of the Act specified in column 1 of Table 2 of Schedule 12 apply for the purposes of enabling these Regulations, with the modifications specified in column 2 of that table, to enable an authorised officer of a food authority—

- (a) to exercise a power of entry to ascertain whether there is, or has been, any contravention of a provision of Regulation 115/2010 mentioned in column 2 of that table;
 - (b) to exercise a power of entry to ascertain whether there is any evidence of any contravention of such provisions; and
 - (c) where exercising a power of entry under the applied section 32 provisions, to exercise the associated powers in subsections (5) and (6) relating to records.
- (2) Paragraph (1) is without prejudice to the application of section 32 of the Act for purposes other than those specified in paragraph (1).

Application of other provisions of the Act

35. The provisions of the Act specified in column 1 of Table 3 of Schedule 12 apply for the purposes of these Regulations, with the modifications specified in column 2 of that table.

Savings and transitional provisions

36.—(1) Any recognition of water as natural mineral water granted under the Natural Mineral Waters Regulations 1985, the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations 1999, or the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2007 and subsisting on the date that these Regulations come into force shall—

- (a) in the case of water extracted from the ground in Wales, be treated as if it were recognition granted by the food authority under regulation 4(2)(a); and
- (b) in the case of water extracted from the ground in a country other than an EEA State, be treated as if it were recognition granted by the Agency under regulation 4(2)(d)(i).

(2) The revocation of the Regulations listed in regulation 37 does not affect the validity of any authorisation, recognition or notification made or given by the Agency or the food authority as the relevant authority under those Regulations, and any such authorisation, recognition or notification continues in effect.

(3) Where an application has been made under the Regulations listed in regulation 37 to a food authority for recognition of water as natural mineral water, the application is to be treated as if it had been made under Parts 1 or 2 of Schedule 1 to these Regulations.

Revocations

37. The following Regulations are revoked—

- (a) the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2007(**8**);
- (b) the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) (Amendment) Regulations 2009(**9**);
- (c) the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) (Amendment) Regulations 2010(**10**);
- (d) the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) (Amendment) Regulations 2011(**11**).

(8) S.I. 2007/3165 (W. 276), amended by S.I. 2009/1897 (W. 170), 2010/748 (W.76), 2011/400 (W.57).

(9) S.I. 2009/1897.

(10) S.I. 2010/748.

(11) S.I. 2011/400.

Amendments to other legislation

38. Schedule 13 (amendments to other legislation) has effect.

4 November 2015

Vaughan Gething
Deputy Minister for Health, one of the Welsh
Ministers