

WELSH STATUTORY INSTRUMENTS

**2015 No. 1867**

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

**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 [<sup>F1</sup>under the relevant bottled water legislation];

<sup>F2</sup>(c) .....

[<sup>F3</sup>(d) in the case of water extracted from the ground in a third country—

- (i) the Agency grants recognition in accordance with Part 2 of Schedule 1;
- (ii) it has equivalent recognition in England granted by the Secretary of State in accordance with regulation 4(1)(d)(i) of, and Part 2 of Schedule 3 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007;
- (iii) it has equivalent recognition in Scotland granted by Food Standards Scotland in accordance with regulation 4(1)(d)(i) of, and Part 2 of Schedule 3 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007;
- (iv) it has equivalent recognition in Northern Ireland granted by the Agency in accordance with regulation 4(2)(d)(i) of, and Part 2 of Schedule 1 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015.]

<sup>F4</sup>(3) .....

**Textual Amendments**

- F1** Words in [reg. 4\(2\)\(b\)](#) substituted (31.12.2020) by [The Food \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1046\)](#), [regs. 1\(3\)](#), [8\(4\)\(a\)\(i\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F2** [Reg. 4\(2\)\(c\)](#) omitted (31.12.2020) by virtue of [The Food \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1046\)](#), [regs. 1\(3\)](#), [8\(4\)\(a\)\(ii\)](#); 2020 c. 1, Sch. 5 para. 1(1)

- F3** Reg. 4(2)(d) substituted (31.12.2020) by *The Food (Miscellaneous Amendments) (Wales) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/1046)*, regs. 1(3), **8(4)(a)(iii)** (as substituted by S.I. 2020/1581, regs. 1(2), **4(4)(b)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F4** Reg. 4(3) omitted (31.12.2020) by virtue of *The Food (Miscellaneous Amendments) (Wales) (EU Exit) (No. 2) Regulations 2019 (S.I. 2019/1046)*, regs. 1(3), **8(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

**[<sup>F5</sup>Transitional provision: withdrawal from the EEA and the EU**

**4A.—**(1) The following waters are accredited, that is to say treated for the purposes of these Regulations as if they were natural mineral waters recognised by the Agency under regulation 4(2)(d)(i)—

- (a) established EU recognised natural mineral waters;
- (b) established Icelandic recognised natural mineral waters;
- (c) established Norwegian recognised natural mineral waters.

(2) The accreditation in paragraph (1) continues to have effect in relation to a natural mineral water to which sub-paragraph (a), (b) or (c) of that paragraph applies until the relevant accreditation cessation date.

(3) In the case of an established EU recognised natural mineral water, if the Welsh Ministers are of the opinion that there is at least one established recognised UK mineral water that is not treated by the responsible authority in at least one member State as a recognised mineral water for the purposes of Directive [2009/54/EC](#), the Welsh Ministers may notify the Commission that the accreditation provided for in paragraph (1)(a) in relation to established EU recognised natural mineral waters is to cease.

(4) In the case of an established Icelandic recognised natural mineral water, if the Welsh Ministers are of the opinion that there is at least one established recognised UK mineral water that is not treated as a recognised mineral water in Iceland for the purposes of Directive [2009/54/EC](#), the Welsh Ministers may notify the Icelandic Food and Veterinary Authority that the accreditation provided for in paragraph (1)(b) in relation to established Icelandic recognised natural mineral waters is to cease.

(5) In the case of an established Norwegian recognised natural mineral water, if the Welsh Ministers are of the opinion that there is at least one established recognised UK mineral water that is not treated in Norway as a recognised mineral water for the purposes of Directive [2009/54/EC](#), the Welsh Ministers may notify the Norwegian Food Safety Authority that the accreditation provided for in paragraph (1)(c) in relation to established Norwegian recognised natural mineral waters is to cease.

(6) No notification may be given under paragraph (3), (4) or (5) before the end of the period of 6 months beginning on the day on which IP completion day falls.

(7) The accreditation cessation date specified in a notification given under paragraph (3), (4) or (5) must be a date that is at least 6 months after the date on which the notification is given, beginning with the day after the day on which that notification is given.

(8) The Welsh Ministers must publish a copy of any notification given under paragraph (3), (4) or (5) in such manner as appears appropriate to the Welsh Ministers in order to bring its effect to the notice of those that the Welsh Ministers consider likely to be, or representative of those likely to be, affected in Wales as soon as is reasonably practicable.

(9) The Welsh Ministers must from time to time publish, in such manner as appears appropriate to the Welsh Ministers, a list of the names of the established EU, Icelandic and Norwegian recognised natural mineral waters that are treated as accredited natural mineral waters under paragraph (1) (“the paragraph 9 list”).

(10) Where a notification is given under paragraph (3), (4) or (5), the Welsh Ministers must update the paragraph 9 list as soon as reasonably practicable after the accreditation cessation date specified in the notification.

(11) The paragraph 9 list is to be treated as conclusive evidence that the waters are accredited natural mineral waters for the purposes of these Regulations.

(12) In this regulation—

“accreditation cessation date” (“*dyddiad y daw'r achrediad i ben*”) means the cessation date as notified by the Welsh Ministers under paragraph (3), (4) or (5);

“Directive 2009/54/EC” (“*Cyfarwyddeb 2009/54/EC*”) means Directive 2009/54/EC as incorporated into the EEA agreement, and as it had effect, immediately before IP completion day;

“established EU recognised natural mineral water” (“*dŵr mwynol naturiol sefydledig a gydnabyddir yn yr UE*”) means—

- (a) a natural mineral water extracted from the ground in any member State—
  - (i) that immediately before IP completion day had the status of a recognised natural mineral water for the purposes of Directive 2009/54/EC, and
  - (ii) for which that recognition remains in force;
- (b) a natural mineral water extracted from the ground in a third country—
  - (i) that immediately before IP completion day had the status of a recognised natural mineral water for the purposes of Directive 2009/54/EC having been recognised by any member State as a natural mineral water for the purposes of Directive 2009/54/EC based on a certificate (“Article 1(2) certificate”) of the type referred to in the second subparagraph of Article 1(2) of Directive 2009/54/EC issued by the responsible authority in the country of extraction,
  - (ii) for which that recognition remains in force, and
  - (iii) for which the Article 1(2) certificate remains valid;

“established Icelandic recognised natural mineral water” (“*dŵr mwynol naturiol sefydledig a gydnabyddir yng Ngwlad yr Iâ*”) means a natural mineral water extracted from the ground in Iceland—

- (a) that immediately before IP completion day had the status of a recognised natural mineral water for the purposes of Directive 2009/54/EC, and
- (b) for which that recognition remains in force;

“established Norwegian recognised natural mineral water” (“*dŵr mwynol naturiol sefydledig a gydnabyddir yn Norwy*”) means a natural mineral water extracted from the ground in Norway—

- (a) that immediately before IP completion day had the status of a recognised natural mineral water for the purposes of Directive 2009/54/EC, and
- (b) for which that recognition remains in force;

“established recognised UK natural mineral water” (“*dŵr mwynol naturiol sefydledig a gydnabyddir yn y DU*”) means a natural mineral water extracted from the ground in the United Kingdom—

- (a) that immediately before IP completion day had the status of a recognised natural mineral water for the purposes of Directive 2009/54/EC, and
- (b) for which that recognition remains in force;

“member State” (“*Aelod-wladwriaeth*”) means a member State of the EU as constituted immediately after IP completion day ;

“third country” (“*trydedd wlad*”) has the same meaning as in Directive [2009/54/EC](#).]

#### Textual Amendments

- F5** Reg. 4A inserted (31.12.2020) by [The Food \(Miscellaneous Amendments\) \(Wales\) \(EU Exit\) \(No. 2\) Regulations 2019 \(S.I. 2019/1046\)](#), regs. 1(3), **8(5)** (as amended by [S.I. 2020/1581](#), regs. 1(2), **4(4)(c)**); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

#### 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—

[<sup>F6</sup>(a) has been extracted from a spring—

- (i) in Wales, which has been exploited in contravention of regulation 8; or
- (ii) otherwise than in Wales, which has been exploited otherwise than in compliance with the requirements as described at regulation 8(1)(a) and (c) and regulation 8(2), or if the responsible authority of the area in which the spring is exploited has not given permission for the spring to be so exploited;

(b) has been subjected—

- (i) in Wales, to any treatment or addition in contravention of regulation 9; or
- (ii) otherwise than in Wales, to—
  - (aa) a treatment which is not described at regulation 9(1)(a)(i), 9(1)(a)(ii), a fluoride removal treatment, or an ozone-enriched air oxidation treatment;
  - (bb) any addition other than an addition described in regulation 9(1)(b); or
  - (cc) any disinfection treatment, the addition of bacteriostatic elements, or any other treatment likely to change the viable colony count of the natural mineral water;

(c) is bottled—

- (i) in Wales, in contravention of regulation 10; or
- (ii) otherwise than in Wales, in contravention of the requirements as described in regulation 10;

(d) is labelled—

- (i) in Wales, in contravention of regulation 11; or
- (ii) otherwise than in Wales, in contravention of the requirements as described in 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.



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**Textual Amendments**

- F6** Reg. 13(2)(a)-(d) substituted (27.10.2017) by The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) (Amendment) Regulations 2017 (S.I. 2017/935), regs. 1(3), 4

**Changes to legislation:**

There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015, PART 2.