
WELSH STATUTORY INSTRUMENTS

2015 No. 1867

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

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(1) 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.

(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).