

# SL(5)144 - The Private Water Supplies (Wales) Regulations 2017.

## Background and Purpose

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These Regulations revoke and replace the Private Water Supply (Wales) Regulations 2010 transposing additional requirements of Council Directive 98/83/EC on the quality of water intended for human consumption in relation to private water supplies, as amended by Commission Directive 2015/1787.

These Regulations implement Council Directive 98/83/EC on the quality of water intended for human consumption and lay down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption.

These Regulations apply to private water supplies (as defined in regulation 2) intended for human consumption.

Part 1 of the Regulations makes provision in relation to water standards for private water supplies.

Part 2 of the Regulations places a duty on local authorities to monitor private water supplies and to ensure that each sample taken is analysed in a prescribed manner.

## 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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Two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. These Regulations are made under section 2(2) of the European Communities Act 1972. The 1972 Act gives a discretion as to whether the negative procedure or the affirmative procedure should apply to these Regulations. The negative procedure has been chosen, which seems appropriate given that they do not amend any provision of an Assembly Act or Measure. [21.3 (ii) that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly.]
2. These Regulations are made to ensure the transposition of Commission Directive 2015/1787. The transposition deadline for this Directive was 27<sup>th</sup> October 2017. Late implementation of a directive can give rise to infraction proceedings. The European Commission is responsible for ensuring that Community law is correctly applied. The Commission has the option of commencing infringement proceedings under Article 258 (ex Article 226 TEC) of the Treaty on the Functioning of the European Union whenever it considers that a Member State has breached Community law. Given the very slight delay this is highly unlikely. However the Welsh Government have not given reasons for the late implementation of Directive 2015/1787. [21.3 (iv) that it inappropriately implements European Union legislation.]



## Implications arising from exiting the European Union

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The following analysis is based on the European Union (Withdrawal) Bill ("the Bill") as introduced.

These Regulations form part of "EU-derived domestic legislation" under clause 2 of the Bill, therefore these Regulations will be retained as domestic law and will continue to have effect in Wales on and after exit day. The Bill gives the Welsh Ministers power to modify these Regulations in order to deal with deficiencies arising from EU withdrawal, subject to certain limitations.

## Government Response

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A government response was not available at the time of the Committee's consideration.

## Committee Consideration

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The Committee considered the instrument at its meeting on 20 November and reports to the Assembly in line with the merits points above.

