

2010 No. 1384 (W. 123)

WATER, WALES

**The Private Water Supplies (Wales)
(Amendment) (No. 2) Regulations
2010**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Directive 98/83/EC on the quality of water intended for human consumption (OJ No L330, 5.12.1998, p.32) in relation to private water supplies.

They amend the Private Water Supplies (Wales) Regulations 2010 by inserting regulation 4A which regulates the use of products and substances in private water supplies. Regulation 31 of the Water Supply (Water Quality) Regulations 2010 determines the products and substances that can be used.

They also amend the Private Water Supplies (Wales) Regulations 2010 by substituting regulation 5(1). Regulation 5 requires, in essence, that where disinfection is carried out, it is done so in a manner which minimises the level of substances that are formed following the addition of disinfectant, (referred to as “disinfection by-products”) whilst not compromising the effectiveness of disinfection.

The substituted regulation 5(1) removes the term “contamination” and makes other minor changes, including the combining of the provisions previously made by regulation 5(1)(a) and (b).

These Regulations were notified in draft to the European Commission in accordance with Directive 98/34/EC, as amended by Directive 98/48/EC.

A full impact assessment has been prepared for the Private Water Supplies (Wales) Regulations 2010. A copy can be obtained from the Climate Change and Water Division of the Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ. No separate impact assessment has been prepared.

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(Amendment) (No. 2) Regulations
2010**

Made *1 May 2010*

Laid before the National Assembly for Wales

5 May 2010

Coming into force

26 May 2010

The Welsh Ministers are designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the quality of water intended for domestic purposes or for use in a food production undertaking.

The Welsh Ministers have carried out the consultation required by Article 9 of Regulation (EC) No. 178/2002 of the European Parliament and of the Council laying down the general principles of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁽³⁾.

(1) S.I. 2004/3328, as amended by S.I. 2005/850, S.I. 2007/1349 and S.I. 2008/301. The functions conferred on the National Assembly for Wales by means of that Order are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32).

(2) 1972 c.68.

(3) OJ No. L31, 1.2.2002, p.1.

The Welsh Ministers make these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and sections 67, 77(3) and (4) and 213(2) of the Water Industry Act 1991(1).

Title, commencement and application

1. The title of these Regulations is the Private Water Supplies (Wales) (Amendment) (No. 2) Regulations 2010; they apply in relation to Wales and come into force on 26 May 2010.

Amendments

2.—(1) The Private Water Supplies (Wales) Regulations 2010(2) are amended as follows.

(2) After regulation 4, insert—

“Use of products and substances in private supplies

4A. Any product or substance used in a private supply after 26 May 2010 must be a

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- (1) 1991 c.56. The functions of the Secretary of State under section 67 were transferred to the National Assembly for Wales (“the Assembly”) – (a) for the making of regulations concerning water supplied using the supply system of a water undertaker, in relation to the supply system of any water undertaker whose area is wholly or mainly in Wales and (b) for the making of regulations concerning water supplied other than using the supply system of a water undertaker, in relation to Wales, by article 2 of, and Schedule 1, to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) (“the Order”); the functions of the Secretary of State under section 77 of that Act were transferred to the Assembly in relation to Wales by the same provisions of the Order; the functions of the Secretary of State under section 213 of that Act were made exercisable by the Assembly to the same extent as the powers to which that section applies were made exercisable by the Assembly by virtue of the same provision of the Order: see the entry in Schedule 1 to the Order for the Water Industry Act 1991 as substituted by paragraph (e) of Schedule 3 to the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253) and amended by section 100(2) of the Water Act 2003 (c.37); there are other amending instruments but none are relevant. Section 213 of that Act was amended by sections 58 and 101(1) of, paragraph 39 of Schedule 7 to, and paragraphs 2, 19 and 49 of Schedule 8 to, the Water Act 2003. References in Schedule 1 to the Order to specific sections of the Water Industry Act 1991 are treated by section 100(6) of the Water Act 2003 as referring to those sections as amended by the Water Act 2003. See section 219(4A) of the Water Industry Act 1991 as inserted by section 101(1) of, and paragraphs 2 and 50 of Schedule 8 to, the Water Act 2003 for the definition of “supply system”. See section 219(1) of Water Industry Act 1991 as amended by section 101(1) of the Water Act 2003 for the definition of “licensed water supplier”. By virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32), the functions conferred on the Assembly are now exercisable by the Welsh Ministers.
- (2) S.I. 2010/66 (W.16) amended by S.I. 2010/147 (W.22).

product or substance that would be permitted to be used in a water supply under regulation 31 of the Water Supply (Water Quality) Regulations 2010(1).”.

(3) For regulation 5(1) substitute—

“Where disinfection forms part of the preparation or distribution of water; the relevant person (as defined in section 80 of the Water Industry Act 1991) must—

- (a) design, operate and maintain the disinfection process so as to keep the presence of disinfection by-products as low as possible without compromising the effectiveness of the disinfection; and
- (b) ensure that the effectiveness of the disinfection process is maintained,
- (c) keep records of the maintenance and monitoring which have been undertaken in order to verify the effectiveness of the disinfection process, and
- (d) keep copies of those records available for inspection by the local authority, for a period of 5 years.”.

Jane Davidson

Minister for Environment, Sustainability and
Housing, one of the Welsh Ministers

1 May 2010

(1) S.I. 2010/994 (W.99).