

Explanatory Memorandum to the Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) (Wales) Regulations 2009

This Explanatory Memorandum has been prepared by the Food Standards Agency Wales and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

1. Description

This Statutory Instrument amends the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Wales) 2007 (SI 2007 No. 3165 (W.276)).

The existing Statutory Instrument implements all existing European legislation relating to natural mineral water, spring water and bottled drinking water (Directives 80/777/EEC (as amended), 98/83/EC and 2003/40/EC). Directive 80/777/EEC has been consolidated in a recast in the new directive, Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) (Wales) Regulations 2008, resulting in an amendment to the Statutory Instrument which replaces references in the Instrument to the current Directive with references to the recast Directive.

2. Matters of special interest to the Subordinate Legislation Committee

The instrument breaches the 21 day rule. The European Council has allowed only 20 days for the recast directive to come into force from the date of its publication in the Official Journal of the European Union. Therefore, in order to ensure the continued enforceability of all requirements relating to natural mineral water contained in SI 2007/3165, the amending Statutory Instrument will be laid before the National Assembly of Wales for a reduced period. Parallel Regulations will come into force in England, Scotland and Northern Ireland, and will also breach the 21 day rule. The Regulations also correct errors identified by the Subordinate Legislation Committee meeting of 27 November 2007 (SLC67). The Leader of the House has written to the Presiding Officer notifying him of the breach.

3. Legislative Background

Welsh Ministers have the required powers under section 16(2) and 17(1) and 2 and 26(1)(a), 2(a) and (3), 31 and 48 (1) of the Food Safety Act 1990. Powers under the Food Safety Act were transferred from the National Assembly for Wales to Welsh Ministers under the provisions of the Government of Wales Act 2006. The Regulations are subject to the negative resolution procedure.

4. Purpose and intended effect of the legislation

The Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2007 transposed the requirements of European Directives 80/777/EEC (as amended by 96/70/EC), 98/83/EC and 2003/40/EC. These Regulations lay down requirements for the exploitation, bottling, labelling or other marking and sale of natural mineral water, spring water and bottled drinking water. Limits are set for certain chemical and microbiological parameters in the water to ensure the quality and safety of bottled water.

European Directive 80/777/EEC on natural mineral water, which was amended by Directive 96/70/EC to encompass spring water, has been replaced with a single recast Directive (EC) 2009/54. This recast directive is essentially a consolidation, although with some amendment of the procedures for developing new detailed rules for natural mineral waters in EC Committees. As a result of the adoption of the recast directive, references in national legislation to the previous Directives need to be replaced so that the legal requirements can continue to apply.

5. Implementation

This instrument will come into force on 16 July 2009.

6. Consultation

A shortened 6 week UK wide consultation of Welsh interested parties was carried out on the draft Regulations. The consultation concluded on 03 October 2008.

One response was received in Wales, which agreed with the amendments of the provision.

7. Regulatory Impact Assessment

A Regulatory Impact Assessment has not been prepared for this Statutory Instrument as these amending regulations do not place any additional burdens on industry. The UK-wide consultation invited consultees to state if they considered an Impact Assessment was required, to which there was a nil response.