STATUTORY INSTRUMENTS

2018 No. 352

FOOD, ENGLAND

The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2018

Made - - - -	*7th March 2018*
Laid before Parliament	*12th March 2018*
Coming into force - -	*6th April 2018*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 6(4), 16(1), 17(1), 26(1) and (3), 31 and 48(1) of the Food Safety Act 1990(**1**) now vested in relation to England in the Secretary of State(**2**).

The Secretary of State has had regard to relevant advice given by the Food Standards Agency in accordance with section 48(4A) of the Food Safety Act 1990(**3**).

There has been consultation as required by Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(**4**).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2018 and come into force on 6thApril 2018.

(2) They extend to England and Wales.

(**1**) 1990 c.16; section 6(4) was amended by the Deregulation and Contracting Out Act 1994 (c. 40), Schedule 9, paragraph 6, the Food Standards Act 1999 (c. 28) ("the 1999 Act"), Schedule 5, paragraph 10(1) and (3) and S.I. 2002/794 and partially repealed by the 1999 Act, Schedule 6. Section 16(1) was amended by the 1999 Act, Schedule 5, paragraph 8. Section 17(1) was amended by the 1999 Act, Schedule 5, paragraphs 8 and 12(a), and S.I. 2011/1043. Section 26(3) was partially repealed by the 1999 Act, Schedule 6. Sections 31(1) and 48(1) were amended by the 1999 Act, Schedule 5, paragraph 8.

(**2**) Functions formerly exercisable by "the Ministers" (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales and, in relation to Scotland, the Secretary of State) are now exercisable in relation to England by the Secretary of State pursuant to the 1999 Act, Schedule 5, paragraph 8.

(**3**) Section 48(4A) was inserted by the 1999 Act, Schedule 5, paragraph 21.

(**4**) OJ No. L 31, 1.2.2002, p. 1, as last amended by Regulation (EU) 2017/745 of the European Parliament and of the Council (OJ No. L 117, 5.5.2017, p. 1).

Amendment of the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007

2. The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007(**5**) are amended as follows.

Amendment of regulation 2 (interpretation)

3. In regulation 2(1)—

(a) at the appropriate places insert the following definitions—

> ""pesticides" has the meaning given in note 6 of Part B of Annex 1 to Council Directive 98/83/EC on the quality of water for human consumption(**6**);";
>
> ""polycyclic aromatic hydrocarbons" means—
>
> (a) benzo(b)fluoranthene,
>
> (b) benzo(k)fluoranthene,
>
> (c) benzo(ghi)perylene, and
>
> (d) indeno(1,2,3-cd)pyrene;";
>
> ""trihalomethanes" means—
>
> (a) chloroform,
>
> (b) bromoform,
>
> (c) dibromochloromethane, and
>
> (d) bromodichloromethane.";

(b) in the definition of "parameter", for the words from "second column" to the end substitute "first column of any table in Schedule 2 or the first column of the table in Section 1 of Part 9 of Schedule 12";

(c) omit the definition of "prescribed concentration or value";

(d) at the end of the definition of "relevant authority" omit "and".

Amendment of regulation 3 (exemptions)

4. For regulation 3(1)(a) substitute—

> "(a) is a medicinal product within the meaning of Directive 2001/83/EC of the European Parliament and of the Council on the Community code relating to medicinal products for human use(**7**);".

Amendment of regulation 14 (marking, labelling and advertising of bottled drinking water)

5. In regulation 14, in paragraphs (a) and (b), in the words before sub-paragraph (i), omit the words from "which" to "Annex I".

Amendment of regulation 16 (enforcement)

6.—(1) Regulation 16 is amended as follows.

(2) In paragraph (5)—

(**5**) S.I. 2007/2785, amended by S.I. 2010/433, 2011/451, 2014/1855; there are other amending instruments but none are relevant.
(**6**) OJ No. L 330, 5.12.1998, p. 32, as last amended by Commission Directive (EU) 2015/1787 (OJ No. 260, 7.10.2015, p. 6).
(**7**) OJ No. L 311, 28.11.2001, p. 67, as last amended by Regulation (EU) 2017/745 of the European Parliament and of the Council (OJ No. L 117, 5.5.2017, p. 1).

(a) in sub-paragraph (a)—

(i) in the words before paragraph (i), for "to check" substitute ", including checks to determine";

(ii) in paragraph (i), at the end insert "and";

(iii) omit paragraphs (ii) to (iv);

(b) omit sub-paragraphs (b) to (d).

(3) In paragraph (6), omit ", (b) and (d)".

Insertion of regulation 16A (monitoring of bottled spring water and bottled drinking water)

7. After regulation 16, insert—

"**Monitoring of water bottled and labelled as "spring water" and bottled drinking water**

16A. Each food authority must, in accordance with Schedule 12, maintain a monitoring programme for, and monitor, any water that—

(a) is water to which paragraph 3 of Schedule 12 applies (water bottled and labelled as "spring water" and bottled drinking water), and

(b) is being bottled in its area.".

Omission of regulations 19 to 21 (methods of analysis, offences and penalties and defences)

8. Omit—

(a) regulation 19 (methods of analysis);

(b) regulation 20 (offences and penalties);

(c) regulation 21 (defences).

Substitution of regulation 22 (application of provisions of the Food Safety Act 1990)

9. For regulation 22 substitute—

"**Application of the Act**

22.—(1) The provisions of the Act specified in the first column of the table in Schedule 13 apply for the purposes of these Regulations, with the modifications specified in the second column of that table.

(2) An authorised officer of a food authority must not serve an improvement notice under section 10(1) of the Act, as applied and modified by paragraph (1), as read with Schedule 13, if—

(a) the improvement notice would relate to water bottled and labelled before 6th April 2018, and

(b) the matters constituting the alleged contravention would not have constituted an offence under these Regulations as they stood immediately before 6th April 2018.".

Substitution of Schedule 2 (requirements for spring water and drinking water including prescribed concentrations or values of parameters)

10. For Schedule 2 (requirements for water bottled and labelled as "spring water" and bottled drinking water including concentration and value limits for microbiological, chemical and radioactive parameters) substitute the Schedule in Schedule 1.

Omission of Schedules 9 to 11 (audit monitoring, check monitoring and minimum sampling frequencies)

11. Omit—

(a) Schedule 9 (properties, elements, substances and organisms, not being parameters, whose concentration or value in bottled drinking water and spring water must be determined by audit monitoring);

(b) Schedule 10 (parameters, properties, elements, substances and organisms in relation to which check monitoring must be carried out);

(c) Schedule 11 (minimum frequencies for sampling and analysis of spring water and bottled drinking water).

Insertion of Schedule 12 (monitoring provisions) and Schedule 13 (application of provisions of the Food Safety Act 1990)

12. At the appropriate places, insert the Schedules in Schedule 2 as Schedule 12 (monitoring of water bottled and labelled as "spring water" and bottled drinking water) and Schedule 13 (application and modification of provisions of the Food Safety Act 1990).

George Eustice
Minister of State
Department for Environment, Food and Rural Affairs

7th March 2018

SCHEDULE 1 Regulation 10

New Schedule 2

"SCHEDULE 2 Regulations 10 and 13

Requirements for water bottled and labelled as "spring water" and bottled drinking water

PART 1

Requirements for water bottled and labelled as "spring water" and bottled drinking water

Water bottled and labelled as "spring water" and bottled drinking water meet the requirements of this Schedule if—

(a) in relation to each of the parameters specified in the first column of the tables in Part 2 (microbiological parameters) and Part 3 (chemical parameters), it does not contain the parameter at a concentration or value exceeding the concentration or value specified for that parameter in the second column of the relevant table—

(i) as measured by reference to the unit of measurement specified in the third column of the relevant table, and

(ii) as read, in the case of the table in Part 3, with any further provision relating to the parameter, or concentration or value for the parameter, specified in the fourth column of the table,

(b) in relation to each of the parameters specified in the first column of the table in Part 4 (radioactive substances), it does not contain the parameter at an activity concentration or value exceeding the activity concentration or value specified for that parameter in the second column of the relevant table as measured by reference to the unit of measurement specified in the third column of the table,

(c) it does not contain (disregarding any parameters covered by sub-paragraphs (a) and (b)), any micro-organism, parasite or any other property, element or substance at a concentration or value that would constitute a potential danger to human health, and

(d) it does not contain any substance (whether or not a parameter) at a concentration or value that, in conjunction with any other property, element, substance or organism it contains (whether or not a parameter), would constitute a potential danger to human health.

PART 2

Parametric values for microbiological parameters

Parameter	*Parametric value*	*Unit of measurement*
Escherichia coli	0/250 ml	number/250 ml
(E. coli)		
Enterococci	0/250 ml	number/250 ml
Pseudomonas aeruginosa	0/250 ml	number/250ml
Colony count 22ºC	100/ml	number/ml