Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

2015 No. 365

FOOD

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

Made - - - -	*5th November 2015*
Coming into operation	*28th November 2015*

The Department of Health, Social Services and Public Safety [F1] makes the following Regulations in exercise of the powers conferred on it by Articles 15(1), 16(1), 25(1) and (3), 26(3), 32 and 47(2) of the Food Safety (Northern Ireland) Order 1991 [F2] and paragraph 1A of Schedule 2 to the European Communities Act 1972 [F3].

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department of Health, Social Services and Public Safety that it is expedient for the references in these Regulations to the Annexes to the EU instruments listed in Regulation 2(3) to be construed as references to those Annexes as amended from time to time.

In accordance with Article 47(3A) of the Food Safety (Northern Ireland) Order 1991, the Department of Health, Social Services and Public Safety has taken into account relevant advice given by the Food Standards Agency.

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 [F4].

F1 Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.I) Article 3(6)

F2 S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12), **paragraphs 26 to 42** of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28 and S.R. 2004 Nos. 482 and 505

F3 1972 c. 68; paragraph 1A of Schedule 2 was inserted by the Legislative and Regulatory Reform Act 2006 (c. 51), **section 28(1)** and amended by the European Union (Amendment) Act 2008 (c. 7), **Sch**edule, Part 1

F4 OJ No L 31, 1.2.02, p 1, last amended by Regulation (EU) No 652/2014 of the European Parliament and of the Council (OJ No L 189, 27.6.2014 p 1)

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015 and come into operation on 28th November 2015.

Interpretation

2.—(1) In these Regulations—

"advertisement" means a representation in any form in connection with a trade or business in order to promote the supply of goods;

"The Agency" means the Food Standards Agency;

"authorised officer" has the same meaning as in Article 2(2)(a) of the Order;

"bottle" means a closed container of any kind in which water is sold for drinking by humans or from which water sold for drinking by humans is derived;

"Directive 98/83" means Council Directive 98/83/EC on the quality of water intended for human consumption [F5];

"Directive 2003/40" means Commission Directive 2003/40/EC establishing the list, concentration limits and labelling requirements for the constituents of natural mineral waters and the conditions for using ozone-enriched air for the treatment of natural mineral waters and spring waters [F6];

"Directive 2009/54" means Directive 2009/54/EC of the European Parliament and of the Council on the exploitation and marketing of natural mineral waters [F7](Recast);

"Directive 2013/51" means Council Directive 2013/51/EURATOM laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption [F8];

"drinking water" means water which is intended for sale for drinking by humans other than—

(a) natural mineral water; or

(b) water intended to be labelled and sold as "spring water";

"EEA State" means a Member State of the European Union, Norway, Iceland and Liechtenstein;

"effervescent natural mineral water" means natural mineral water which, at source or after bottling, gives off carbon dioxide spontaneously and in a clearly visible manner under normal conditions of temperature and pressure;

[F9"fluoride removal treatment" means—

(a) a treatment of natural mineral water or water intended to be bottled and labelled as "spring water", with activated alumina in order to remove fluoride which is authorised in accordance with regulations 9(1)(a)(iii) or 15(1)(a)(iii) and Schedule 2,

(b) in the case of natural mineral water or water intended to be bottled and labelled as "spring water", brought into Northern Ireland from another part of the United Kingdom or from another EEA state, a treatment which has been authorised by the competent authority in the area in which the water is extracted as complying with the requirements of Articles 1 to 3 of Regulation 115/2010 and which treatment does not have a disinfectant action; or

(c) in the case of natural mineral water or water intended to be bottled and labelled as "spring water", brought into Northern Ireland from a non-EEA state, a treatment that has been authorised by the competent authority in that state in accordance with procedures for authorising fluoride removal treatment in that state which have been found by the Agency or equivalent authority in another part of the United Kingdom or an EEA State to be equivalent to the requirements of Articles 1 to 3 of Regulation 115/2010 and which treatment does not have a disinfectant action;**]**

"label" means any tag, brand, mark, pictorial or other descriptive matter which is written, printed, stencilled, marked, embossed or impressed on, or attached to the bottle of water;

"natural mineral water" means water which—

(a) is microbiologically wholesome within the meaning of Article 5 of Directive 2009/54,

(b) originates in an underground water table or deposit and emerges from a spring tapped at one or more natural or bore exits,

(c) can be clearly distinguished from drinking water on account of the following characteristics having been preserved intact because of the underground origin of the water, which has been protected from all risk of pollution—

(i) its nature, which is characterised by its mineral content, trace elements or other constituents and, where appropriate, by certain effects, and

(ii) its original purity; and

(d) is for the time being recognised pursuant to and in accordance with regulation 4;

[[F10]"ozone-enriched air treatment" means—

(a) a treatment of natural mineral water or water intended to be bottled and labelled as "spring water", with ozone-enriched air which is authorised in accordance with regulations 9(1)(a)(iv) or 15(1)(a)(iv) and Schedule 3,

(b) in the case of natural mineral water or water intended to be bottled and labelled as "spring water", brought into Northern Ireland from other parts another part of the United Kingdom or from another EEA State, a treatment that has been authorised by the competent authority in the area in which the water is extracted as complying with Article 5 of Directive 2003/40, as implemented in that part of the United Kingdom or that EEA State, and which treatment does not have a disinfectant action; or

(c) in the case of natural mineral water or water intended to be bottled and labelled as "spring water", brought into Northern Ireland from a non-EEA state, a treatment that has been authorised by the competent authority in that state in accordance with procedures for authorising ozone-enriched air treatment in that state which have been found by the Agency or equivalent authority in another part of the United Kingdom or an EEA State to be equivalent to the requirements of Article 5 of Directive 2003/40, and which treatment does not have a disinfectant action;**]**

"the Order" means the Food Safety (Northern Ireland) Order 1991;

"parameter" means a property, element, organism or substance listed in the second column of any table in Part 2, 3 or 4 of Schedule 7;

"Regulation 115/2010" means Commission Regulation (EU) No 115/2010 laying down the conditions for use of activated alumina for the removal of fluoride from natural mineral waters and spring waters [F11]; and

"sell" includes possess for sale and offer, expose or advertise for sale.

(2) Expressions used in these Regulations that are also used in Directive 98/83, Directive 2009/54, Regulation 115/2010 or Directive 2013/51 have the same meaning in these Regulations as they have in those Directives or the Regulation.

(3) References to the Annexes to Directive 98/83, Directive 2003/40, Directive 2009/54, Regulation 115/2010 and Directive 2013/51 are references to those Annexes as amended from time to time.

(4) Any reference in these Regulations to the labelling of a bottle includes both labelling done before any water is bottled, and labelling after bottling.

(5) The Interpretation Act (Northern Ireland) 1954 [F12] applies to these Regulations as it applies to an Act of the Assembly.

F5 OJ No L 330, 5.12.98 p 32, last amended by Commission Directive (EU) 2015/1787 (OJ No L 260 7.10.15, p 6)
F6 OJ No L 126, 22.5.03, p 34
F7 OJ No L 164, 26.6.09, p 45
F8 OJ No L 296, 7.11.2013, p 12
F9 Words in reg. 2(1) substituted (27.10.2017) by The Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2017 (S.R. 2017/201), regs. 1, **3(a)**
F10 Words in reg. 2(1) substituted (27.10.2017) by The Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2017 (S.R. 2017/201), regs. 1, **3(b)**
F11 OJ No L 37, 10.2.10, p 13
F12 1954 c.33 (NI)

Exemptions

3.—(1) These Regulations do not apply to any water which—

(a) is a medicinal product within the meaning of Directive 2001/83 of the European Parliament and of the Council on the Community code relating to medicinal products for human use [F13];

(b) is a natural mineral water which is used at source for curative purposes in thermal or hydromineral establishments;

(c) is not intended for sale for drinking by humans; or

(d) is a natural mineral water intended for export to a country other than an EEA State.

(2) These Regulations do not apply to packaged ice portions intended for use in cooling food.

F13 OJ No L 311, 28.11.2001 p 67, last amended by Directive 2012/26/EU (OJ No L 299 27.10.2012, p 1)

PART 2

Natural mineral water

Recognition as natural mineral water

4.—(1) Natural mineral water may only be sold as natural mineral water if it is recognised in accordance with paragraph (2).

(2) Water is recognised as natural mineral water where—

(a) in the case of water extracted from the ground in Northern Ireland, the district council grants recognition in accordance with Part 1 of Schedule 1;

(b) in the case of water extracted from the ground in another part of the United Kingdom, the responsible authority of that part of the United Kingdom recognises it pursuant to Directive 2009/54;

(c) in the case of water extracted from the ground in an EEA State other than the United Kingdom, a responsible authority of that EEA State recognises it pursuant to Directive 2009/54;

(d) in the case of water extracted from the ground in a country other than an EEA State—

(i) the Agency grants recognition in accordance with Part 2 of Schedule 1;

(ii) it has an equivalent recognition, given by a responsible authority of another part of the United Kingdom, or an EEA State other than the United Kingdom.

(3) The publication in the Official Journal of the European Union of the name of any water as a natural mineral water recognised in the European Union for the purposes of Directive 2009/54 is conclusive evidence that that water is recognised for the purposes of that Directive, except where recognition is granted in accordance with Schedule 1.

Declining to grant or withdrawing recognition

5.—(1) Where, in relation to any water that has been recognised under regulation 4(2)(a) or 4(2)(d)(i) it is found that—

(a) by analysis in accordance with Part 3 of Schedule 1, the requirements of paragraph 3 of that Part are not met;

(b) the requirements of Schedule 4 are not met; or

(c) the content of the water is not in accordance with Part 1, paragraph 1(c) or Part 2, paragraph 1(c) of Schedule 1.

the district council or, as the case may be, the Agency may withdraw that recognition until such time as the requirements concerned are met.

(2) Where the district council or the Agency declines to grant or withdraws recognition of a water, the person who exploits or wishes to exploit the spring from which that water emerges or, if different, the person who owns the land on which that spring is situated may within 6 months of being notified of the decision seek a review of the decision by a person appointed for the purpose by the Agency.

(3) The appointed person must review the decision and consider and any representations made by the district council or the Agency and within 3 months report in writing with a recommended course of action to the Agency.

(4) The Agency must either—

(a) confirm the decision together with the reasons; or

(b) direct the district council to grant or restore, or itself restore recognition of the water in question.

(5) Where a district council is directed by the Agency under paragraph (4)(b) to grant or restore recognition, it must immediately comply with that direction.

Application to withdraw recognition

6. A person who exploits a spring from which water is extracted which is recognised as natural mineral water in accordance with regulation 4(2)(a) or 4(2)(d)(i), may apply to the district council or the Agency, as appropriate, to have that recognition withdrawn.