STATUTORY RULES OF NORTHERN IRELAND

2010 No. 68

FOOD

The Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2010

Made - - - -	*8th March 2010*
Coming into operation	*9th April 2010*

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred on it by Articles 15(1), 16, 25(1)(a) and (3), 32 and 47(2) of, and paragraphs 1 and 4(b) of Schedule 1 to the Food Safety (Northern Ireland) Order 1991(**2**).

In accordance with Article 47(3A) of that Order, it has had regard to relevant advice given by the Food Standards Agency.

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(**3**) there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

Citation and commencement

1. These Regulations may be cited as the Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2010 and come into operation on 9th April 2010.

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

2. The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2007(**4**) are amended in accordance with regulations 3 to 9.

3. In regulation 2(1) (interpretation)—

(**1**) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3(6)

(**2**) 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

(**3**) OJ No. L31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny-Part Four (OJ No. L188, 18.7.2009, p.14)

(**4**) S.R. 2007 No. 420, amended by S.R. 2009 No. 260

(a) immediately after the definition of "the Agency" there is inserted—

""authorised activated alumina treatment" means—

(a) a treatment of natural mineral water and spring water with activated alumina in order to remove fluoride, that has been authorised in accordance with Schedule 1A; or

(b) in the case of natural mineral water or spring water brought into Northern Ireland from another part of the United Kingdom or from another EEA state, a treatment which complies with Articles 1 to 3 of Regulation 115/2010;"; and

(b) immediately after the definition of "prescribed concentration or value" there is inserted—

""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;"(**5**).

4. For regulation 6(1) (treatments and additions for natural mineral water) there is substituted—

"(1) A person shall not subject natural mineral water in its state at source to—

(a) any treatment other than—

(i) an authorised ozone-enriched air oxidation technique;

(ii) the separation of its unstable elements, such as iron and sulphur compounds, by filtration or decanting, whether or not preceded by oxygenation, in so far as the treatment does not alter the composition of the water as regards the essential constituents which give it its properties;

(iii) the total or partial elimination of free carbon dioxide by exclusively physical methods; or

(iv) an authorised activated alumina treatment; or

(b) any addition other than the introduction or the re-introduction of carbon dioxide to produce effervescent natural mineral water.".

5. Immediately after regulation 10(2) (bottling of spring water and exploitation of spring water springs) there is inserted—

"(2A) A person shall not cause any water which has been treated with activated alumina for removal of fluoride to be bottled in a bottle marked or labelled "spring water", unless that treatment is an authorised activated alumina treatment.".

6. For regulation 16(3) (enforcement) there are substituted the following paragraphs—

"(3) Each district council shall, within its district, carry out periodic checks on any authorised activated alumina treatment in respect of which the authorisation was granted by it in accordance with Schedule 1A, to ensure that the requirements of that Schedule continue to be satisfied.

(4) Each district council shall, within its district, execute and enforce these Regulations.

(5) For the purposes of carrying out the function referred to in paragraph (4) in relation to bottled drinking water and spring water each district council shall—

(a) subject to paragraph (6), carry out regular monitoring of the quality of any such water to check whether—

(i) it satisfies the requirements of Directive 98/83;

(**5**) OJ No. L37, 10.2.2010, p.13

(ii) it contains a concentration or value for any parameter in excess of its prescribed concentration or value;

(iii) it contains a concentration or value for a property, element, substance or organism set out in Schedule 9 (as read with the Notes to that Schedule) in excess of the concentration or value specified in relation to the property, element, substance or organism concerned in that Schedule as measured by the unit of measurement so specified;

(iv) in the case where, in accordance with sub-paragraph (iii), a district council determines that the water concerned contains a concentration or value for *Clostridium perfringens* (including spores) in excess of the concentration or value specified in relation to it in Schedule 9 (as read with Note 2 to that Schedule) there is any potential danger to human health arising from the presence in the water of pathogenic micro-organisms; and

(v) in the case where disinfection forms part of the preparation or distribution of the water concerned, the disinfection treatment applied is efficient and any contamination from disinfection by-products is kept as low as is possible without compromising the disinfection.

(b) in order to comply with sub-paragraph (a)—

(i) carry out regular check monitoring in relation to the parameters, properties, elements, substances and organisms set out in Schedule 10, as read with the Notes to that Schedule, and

(ii) carry out audit monitoring in relation to any parameter and the properties, elements, substances and organisms set out in Schedule 9, as read with the Notes to that Schedule;

(c) for the purposes of sub-paragraph (b), carry out sampling and analysis in accordance with the relevant minimum frequencies set out in Schedule 11; and

(d) carry out additional monitoring in relation to any property, element, substance or organism which is neither a parameter nor a property, element, substance or organism set out in Schedule 9 if the district council has reason to suspect that it may be present in the water concerned in an amount or number which constitutes a potential danger to human health.

(6) The checks and monitoring referred to in paragraph (5)(a), (b) and (d) shall be carried out using samples representative of the quality of the water concerned consumed throughout the year in which the samples are taken.".

7. For regulation 20 (offences and penalties) there is substituted—

"**Offences and penalties**

20.—(1) A person is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale if that person —

(a) contravenes regulation 5, 6(1), 7(1), (3) or (4), 8, 9, 10, 11, 12, 13, 14, 15 or 22(3);

(b) fails to comply with any provision of Regulation 115/2010 specified in paragraph (2); or

(c) carries out an authorised activated alumina treatment that has a disinfectant action.

(2) The provisions are—

(a) Article 1.2 (requirement that authorised activated alumina treatments be performed in accordance with the technical requirements set out in the Annex);

(b) the first sentence of Article 2 (requirement that the release of residues into natural mineral water or spring water as a result of any authorised activated alumina treatment be as low as technically feasible according to the best practices and not pose a risk to public health);

(c) the second sentence of Article 2 (requirement that, to ensure compliance with the first sentence of Article 2, operators implement and monitor the critical processing steps set out in the Annex);

(d) Article 3.1 (requirement that the application of an authorised activated alumina treatment be notified to the competent authorities at least three months prior to use); and

(e) Article 4 as read with the second paragraph of Article 5 (requirement that, subject to a transitional provision, the label on natural mineral water or spring water subjected to any authorised activated alumina treatment include specified information in proximity to the statement of the analytical composition).".

8. Immediately after Schedule 1 (conditions for treatment of natural mineral waters and spring waters with ozone-enriched air) there is inserted the Schedule set out in Schedule 1 to these Regulations.

9. Immediately after Schedule 8 (labelling indications for natural mineral water and criteria for use) there are added the Schedules set out in Schedule 2 to these Regulations.

Sealed with the official seal of the Department of Health, Social Services and Public Safety on 8th March 2010.

L.S.

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Social Services and Public Safety