STATUTORY RULES OF NORTHERN IRELAND

2004 No. 115

FOOD

Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2004

Made - - - -	*15th March 2004*
Coming into operation –	
except for regulations 5, 8(2), 11(a) and 12(2)	*9th April 2004*
regulations 5, 8(2), 11(a) and 12(2)	*1st July 2004*

The Department of Health, Social Services and Public Safety(**1**) in exercise of the powers conferred on it by Articles 15(1), 16(1), 25(1)(a) and (3), 26(3), 32 and 47(2) of, and paragraph 1 of Schedule 1 to, the Food Safety (Northern Ireland) Order 1991(**2**) and of all other powers enabling it in that behalf, having had regard, in accordance with Article 47(3A) of the said Order, to relevant advice given by the Food Standards Agency, and after 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(**3**), and in accordance with Article 47(3) and (3B) of the said Order, hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2004.

(2) Subject to paragraph (3), these Regulations shall come into operation on 9th April 2004.

(3) Regulations 5, 8(2), 11(a) and 12(2) shall come into operation on 1st July 2004.

(**1**) Formerly the Department of Health and Social Services; *see*S.I. 1999/283 (N.I. 1), Article 3
(**2**) S.I. 1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12) and paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c. 28
(**3**) O.J. No. L31, 1.2.2002, p. 1

Amendments to the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 1999

2. The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 1999(**4**) shall be amended in accordance with regulations 3 to 14.

3. In paragraph (1) of regulation 2 (interpretation) –

(a) after the definition of "the Agency" there shall be inserted the following definition –

""authorised ozone-enriched air oxidation technique" means –

(a) a treatment with ozone-enriched air authorised and carried out in accordance with Schedule 5; or

(b) in the case of water brought into Northern Ireland from other parts of the United Kingdom or from another EEA State a treatment which complies with Article 5 of Directive 2003/40 as implemented in that part of the United Kingdom or that EEA State.";

(b) after the definition of "Directive 98/83" there shall be inserted –

""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.".

4. In paragraph (1) of regulation 7 (treatments and additions), for sub-paragraph (a) there shall be substituted –

"(a) any treatment other than –

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

(ii) a treatment referred to in sub-paragraph (a) or (d) of Article 4.1; or".

5. After regulation 7 there shall be inserted –

"**7A.**—(1) No person shall bottle any natural mineral water which, at the time of bottling, contains any substance listed in Schedule 6 at a level which does not comply with the limit specified in relation to that substance in that Schedule.

(2) No person shall sell any natural mineral water bottled in contravention of paragraph (1).

(3) The methods used for detection of the substances listed in Schedule 6 shall conform to the performance characteristics for analysis in Schedule 7.

(4) For the purposes of paragraphs (1) and (2), where –

(a) (i) the water concerned does not comply with the limits in Schedule 6,

(ii) the water concerned was bottled in another EEA State,

(iii) the EEA State concerned had not, at the time of bottling, implemented Article 2(1) of Directive 2003/40,

(iv) the water was bottled prior to 1st January 2006 and at the date of bottling otherwise complied with Directives 80/777, 98/83 and the provisions of Directive 2003/40 which were in force in that EEA State; or

(b) (i) the water concerned exceeds the maximum limits specified in Schedule 6 relating to nickel and fluoride,

(ii) the water concerned was bottled in another EEA State,

(**4**) S.R. 1999 No. 301, as amended by S.R. 2000 No. 78 and S.R. 2003 No. 182

(iii) the EEA State concerned had not, at the time of bottling, implemented Article 2(1) of Directive 2003/40 in so far as it relates to limits for nickel and fluoride,

(iv) the water was bottled prior to 1st January 2008 and at the date of bottling otherwise complied with Directives 80/777, 98/83 and the provisions of Directive 2003/40 which were in force in that EEA State,

that water shall be deemed not to exceed the maximum limits specified in Schedule 6.".

6. After regulation 9 there shall be inserted –

"**9A.** No person shall bottle any natural mineral water, or sell natural mineral water which is bottled if it has been treated with ozone-enriched air unless that treatment is an authorised ozone-enriched air oxidation technique.".

7. For paragraph (3) of regulation 10 (labelling of natural mineral water) there shall be substituted –

"(3) Natural mineral water shall be marked or labelled with –

(a) where it has undergone the treatment of total or partial elimination of free carbon dioxide by exclusively physical methods, the indication "fully de-carbonated" or "partially de-carbonated" as appropriate;

(b) where it has undergone an authorised ozone-enriched air oxidation technique, the words "water subjected to an authorised ozone-enriched air oxidation technique", which shall appear in proximity to the analytical composition of characteristic constituents;

(c) where its fluoride concentration exceeds 1.5 mg/l –

(i) the words "contains more than 1.5 mg/l of fluoride not suitable for regular consumption by infants and children under 7 years of age", which shall appear in proximity to the trade name and in clearly visible characters,

(ii) the actual fluoride content in relation to the physico-chemical composition, which shall be included within the mandatory information referred to in paragraph (4); and

(d) the mandatory information referred to in paragraph (4).".

8.—(1) In regulation 10(5)(b), after "has undergone any of the treatments referred to in paragraph (3)(a)" there shall be added "or (b)".

(2) In regulation 10(5), at the end of sub-paragraph (c) "or" shall be omitted, and at the end of sub-paragraph (d) there shall be added –

"or

(e) does not bear the labelling indication set out in sub-paragraph (c) of paragraph (3) where required by that sub-paragraph.".

9. In paragraph (1) of regulation 11 (spring water), at the end of sub-paragraph (d) "and" shall be omitted, and at the end of sub-paragraph (e) the following shall be inserted –

"and

(f) where the water has undergone an authorised ozone-enriched air oxidation technique, the water is marked or labelled "water subjected to an authorised ozone-enriched air oxidation technique" which shall appear in close proximity to the particulars in paragraph 3.".

10. After regulation 11 there shall be inserted –

"**11A.** No person shall cause any water to be bottled in a bottle marked or labelled with the description as spring water, or sell water which is described as spring water, if it has been treated with ozone-enriched air unless that treatment is an authorised ozone-enriched air oxidation technique.".

11. In regulation 17 (offences and penalties) –

(a) after "7," there shall be inserted "7A(1) or (2),";

(b) after "9," there shall be inserted "9A,";

(c) after "11(1), (2), (3) or (5)," there shall be inserted "11A,".

12.—(1) In regulation 18 (defences), after paragraph (3) there shall be added the following paragraphs –

"(4) In any proceedings for an offence for contravening regulations 9A, 10(3)(b), 11(1)(f) or 11A it shall be a defence for the accused to prove that –

(a) the water in respect of which the offence is alleged to have been committed was bottled and marked or labelled before 1st July 2004; and

(b) the matters constituting the alleged offence would not have constituted an offence under these Regulations as they stood immediately before the coming into operation of the Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2004.".

(2) In regulation 18, after paragraph (4) inserted by paragraph (1) there shall be added the following –

"(5) In any proceedings for an offence for contravening regulations 7A or 10(5)(e) it shall be a defence for the accused to prove that –

(a) the water in respect of which the offence is alleged to have been committed was bottled and marked or labelled, as the case may be, before 1st July 2004; and

(b) the matters constituting the alleged offence would not have constituted an offence under these Regulations as they stood immediately before the coming into operation of the Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2004.".

13.—(1) In Schedule 1, Part I, paragraph 2, sub-paragraph (c), for the words following "contains no substance" there shall be substituted –

"listed in Schedule 6 at a level which exceeds the maximum limit specified in relation to that substance in that Schedule.".

(2) In Schedule 1, Part II, paragraph 2, sub-paragraph (c), for the words following "contains no substance" there shall be substituted –

"listed in Schedule 6 at a level which exceeds the maximum limit specified in relation to that substance in that Schedule.".

14. After Schedule 4 there shall be added Schedules 5, 6 and 7 contained in the Schedule.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 15th March 2004.

W. B. Smith
A senior officer of the
Department of Health, Social Services and
Public Safety