STATUTORY RULES OF NORTHERN IRELAND

2003 No. 182

FOOD

Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2003

Made - - - -	*19th March 2003*
Coming into operation	*1st May 2003*

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. These Regulations may be cited as the Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2003 and shall come into operation on 1st May 2003.

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 21.

3. In regulation 2 (interpretation) –

(a) in paragraph (1) –

(i) in the definition of "bottle", for "sold for human consumption", in both places where it appears, there shall be substituted "sold for drinking by humans",

(**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
(**4**) S.R. 1999 No. 301; the relevant amending Regulations are S.R. 2000 No. 78

(ii) after the definition of "Directive 80/778" there shall be inserted the following definition –

""Directive 98/83" means Council Directive 98/83/EC relating to the quality of water intended for human consumption(**5**);",

(iii) for the definition of "drinking water" there shall be substituted the following definition –

""drinking water" means water intended for sale for drinking by humans other than –

(a) natural mineral water; or

(b) water bottled in a bottle marked or labelled "spring water" in accordance with regulation 11;", and

(iv) in each of the definitions of "parameter" and "prescribed concentration or value" there shall be inserted at the beginning "subject to paragraph (5),";

(b) for paragraph (2) there shall be substituted –

"(2) Other expressions used both in these Regulations and in Council Directive 80/777 or 80/778 have the same meaning in these Regulations as they bear in the Directive concerned."; and

(c) after paragraph (4) there shall be added the following paragraphs –

"(5) Before 25th December 2003, the references to "Schedule 3", in the definitions of "parameter" and "prescribed concentration or value" in paragraph (1), shall have effect as if the amendments made to these Regulations by regulations 17 to 21 of the Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2003 had not been made.

(6) Any reference in these Regulations to the marking or labelling of a bottle relates both to the case where the marking or labelling occurs before any water is bottled and also to the case where it occurs after bottling.".

4. In paragraph (c) of regulation 3 (exemptions), for "human consumption" there shall be substituted "drinking by humans".

5. In regulation 4 (recognition as natural mineral water) –

(a) in paragraph (2) –

(i) in sub-paragraph (a), "or" shall be deleted,

(ii) in sub-paragraph (b) there shall be added at the end "or", and

(iii) after sub-paragraph (b) there shall be inserted the following sub-paragraph –

"(c) that the content of the water is not in accordance with paragraph 2(c) in Part I or, as the case may be, paragraph 2(c) in Part II, of Schedule 1,";

(b) for paragraph (5) there shall be substituted the following paragraph –

"(5) Upon the grant or withdrawal pursuant to this regulation, by a district council, of recognition for the purposes of Article 1, the district council concerned shall immediately inform the Agency of such grant or withdrawal."; and

(c) after paragraph (7) there shall be inserted the following paragraph –

"(7A) Upon receiving notification of any change to the trade description of a natural mineral water, or to the name of the spring from which a natural mineral water has been

(**5**) O.J. No. L330, 5.12.98, p. 32

extracted, the district council concerned shall immediately inform the Agency of that change.".

6. In regulation 5 (prohibition on sale), after "any water" there shall be inserted "bottled in a bottle".

7. In regulation 10 (labelling of natural mineral water) –

(a) in paragraph (1), after "cause a natural mineral water to be" there shall be inserted "bottled in a bottle,";

(b) in paragraph (3), after "Natural mineral water shall be" there shall be inserted "bottled in a bottle"; and

(c) for paragraph (5) there shall be substituted the following paragraph –

"(5) No person shall sell any natural mineral water which –

(a) is bottled in a bottle marked or labelled in contravention of paragraph (1);

(b) has undergone any of the treatments referred to in paragraph (3)(a), unless the bottle in which it is bottled is marked or labelled with the appropriate indication in accordance with that paragraph;

(c) is bottled in a bottle not marked or labelled with the mandatory information referred to in paragraph (4); or

(d) is bottled in a bottle marked or labelled with a trade description which is different from the trade description with which any other natural mineral water originating from the same spring is marked or labelled.".

8. For regulation 11 (spring water) there shall be substituted the following regulation –

"**Spring water**

11.—(1) No person shall cause any water to be bottled in a bottle marked or labelled "spring water" unless –

(a) that water has been extracted from a spring;

(b) subject to paragraph (4), that water would, if it were a natural mineral water, meet the exploitation and bottling requirements;

(c) that water would, if it were a natural mineral water, be capable of being bottled or sold without contravening the provisions of regulation 8;

(d) subject to paragraphs (6) and (7), that water satisfies the requirements of Schedule 3; and

(e) the bottling occurs at source.

(2) No person shall cause any bottle to be marked or labelled with the description "spring water" unless the water contained in it –

(a) is, subject to paragraphs (6) and (7), bottled as specified in paragraph (1);

(b) is (if it has not undergone any treatment) intended for consumption in its natural state; and

(c) would (where the bottle in which it is bottled is marked or labelled with any trade description), if it were a natural mineral water, comply with the requirements of Article 8.

(3) No person shall cause any water to be bottled in a bottle marked or labelled with the description "spring water" unless the bottle is also marked or labelled with –

(a) the name of the place where the spring in question is exploited; and

(b) the name of the spring.

(4) Any water bottled in a bottle marked or labelled with the description "spring water", which is transported from the spring to the bottling plant in a container which is not for distribution to the ultimate consumer, shall not, for that reason alone, be taken to have failed to meet the exploitation and bottling requirements if, on or before 23rd November 1996, the water from that spring was so transported to the bottling plant.

(5) No person shall sell any water which, subject to paragraphs (6) and (7), is –

(a) bottled otherwise than as specified in paragraph (1); or

(b) bottled in a bottle marked or labelled in contravention of paragraphs (2) or (3).

(6) Before 25th December 2003, the references in paragraphs (1)(d) and (7) to "Schedule 3" shall have effect as if the amendments made to these Regulations by regulations 17 to 21 of the Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2003 had not been made.

(7) For the purposes of paragraphs (2)(a) and (5), where the water concerned has been bottled in an EEA State other than the United Kingdom, but does not satisfy the requirements of Schedule 3, it shall be deemed to satisfy those requirements if, at the date of bottling –

(a) it satisfies the requirements prescribed in that State corresponding to those in Schedule 3; and

(b) those requirements are in accordance with –

(i) (where the bottling occurs before 25th December 2003) whichever of Directives 80/778 and 98/83 is applicable in that State, or

(ii) (where the bottling occurs on or after that date) Directive 98/83.".

9. In regulation 12 (bottled drinking water) –

(a) for paragraph (1) there shall be substituted the following paragraph –

"(1) Subject to paragraphs (3) and (4), no person shall cause any drinking water to be bottled, or sell any bottled drinking water, unless it satisfies the requirements of paragraph (2) and Schedule 3.";

(b) for paragraph (2) there shall be substituted the following paragraph –

"(2) No person shall cause any drinking water which does not satisfy the provisions of section 1 of Annex I to be bottled in a bottle marked or labelled with any designation, proprietary name, trade mark, brand name, illustration or other sign, whether emblematic or not, the use of which is forbidden by Article 9.1(b).''; and

(c) after paragraph (2) there shall be added the following paragraphs –

"(3) Before 25th December 2003, the references in paragraphs (1) and (4) to "Schedule 3" shall have effect as if the amendments made to these Regulations by regulations 17 to 21 of the Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2003 had not been made.

(4) For the purposes of paragraph (1), where the water concerned has been bottled in an EEA State other than the United Kingdom, but does not satisfy the requirements of Schedule 3, it shall be deemed to satisfy those requirements if, at the date of bottling –

(a) it satisfies the requirements prescribed in that State corresponding to those in Schedule 3; and

(b) those requirements are in accordance with –

(i) (where the bottling occurs before 25th December 2003) whichever of Directives 80/778 and 98/83 is applicable in that State, or

(ii) (where the bottling occurs on or after 25th December 2003) Directive 98/83.".

10. In regulation 13 (enforcement) –

(a) for paragraph (1) there shall be substituted the following paragraph –

"(1) Each district council shall –

(a) enforce and execute these Regulations within its district, and

(b) with effect from 25th December 2003, for the purposes of carrying out that function, take, within its district, in relation to products to which these Regulations and Directive 98/83 apply, the steps required of member States and competent authorities by Article 7.1 to 3 and 7.6 of that Directive.";

(b) in sub-paragraph (a)(i) of paragraph (2), for "4(b)" there shall be substituted "4(a)".

11. For regulation 16 (analysis) there shall be substituted the following regulation –

"**16.**—(1) Subject to paragraph (2), methods of analysis which accord with Article 7.5 of Directive 98/83 shall be used for the purposes of determining whether or not water satisfies the provisions of Schedule 3.

(2) Before 25th December 2003, paragraph (1) shall have effect as if the reference therein to Article 7.5 of Directive 98/83 were a reference to Article 12.5 of Directive 80/778 and the amendments made to these Regulations by regulations 17 to 21 of the Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2003 had not been made.".

12. In regulation 17 (offences and penalties), for "10(1) or (5), 11(1) or (3), 12" there shall be substituted "10(1) or (5), 11(1), (2), (3) or (5), 12(1) or (2)".

13. In regulation 18 (defences) –

(a) for sub-paragraph (b) of paragraph (1) there shall be substituted the following sub-paragraph –

"(b) if the water was intended for export to an EEA State, that –

(i) in the case of water bottled in a bottle marked or labelled with the term "spring water" –

(A) where the export was to take place before 25th December 2003, the legislation complies with the provisions of Directive 80/777 and whichever of Directives 80/778 and 98/83 is applicable in the State concerned, and

(B) where the export was to take place on or after that date, the legislation complies with the provisions of Directives 80/777 and 98/83; and

(ii) in the case of bottled drinking water –

(A) where the export was to take place before 25th December 2003, the legislation complies with the provisions of whichever of Directives 80/778 and 98/83 is applicable in the State concerned, and

(B) where the export was to take place on or after that date, the legislation complies with the provisions of Directive 98/83.";

(b) in paragraph (2)(a), after "or" there shall be inserted "the bottle in which it was bottled was marked or"; and