STATUTORY RULES OF NORTHERN IRELAND

1999 No. 301

FOOD

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

Made - - - -	*30th June 1999*
Coming into operation	*16th August 1999*

The Department of Health and Social Services for Northern Ireland 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 the Food Safety (Northern Ireland) Order 1991(**1**) and, being a designated Department(**2**) for the purposes of section 2(2) of the European Communities Act 1972(**3**) in relation to the exploitation and marketing of natural mineral waters, in exercise (so far as is required for revocations effected by these Regulations) of the powers conferred on it by the said section 2(2), and in each case in exercise of all other powers respectively enabling it in that behalf and after consultation (so far as is required by Article 47(3) of the said Order) with such organisations as appear to it to be representative of interests likely to be substantially affected by these Regulations, hereby makes the following Regulations:

PART I

Introductory

Citation and commencement

1. These Regulations may be cited as the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 1999 and shall come into operation on 16th August 1999.

Interpretation

2.—(1) In these Regulations—

"bottle" means a closed container of any kind in which water is sold for human consumption or from which water sold for human consumption is derived;

(**1**) S.I.1991/762 (N.I. 7) as amended by S.I. 1996/1633 (N.I. 12). See Article 2(2) for the definitions of "the Department concerned" and "regulations"
(**2**) S.I. 1973/1889
(**3**) 1972 c. 68

"bottled drinking water" means drinking water which is bottled;

"Directive 80/777" means Council Directive 80/777/EEC on the approximation of the laws of the member States relating to the exploitation and marketing of natural mineral waters(**4**) as amended by Directive 96/70/EC of the European Parliament and of the Council(**5**);

"Directive 80/778" means Council Directive 80/778/EEC relating to the quality of water intended for human consumption(**6**);

"drinking water" means water intended for sale for human consumption other than—

(a) natural mineral water; or

(b) water which is marked or labelled "spring water" in accordance with regulation 11;

"EEA Agreement" means the Agreement on the European Economic Area(**7**) signed at Oporto on 2nd May 1992, as adjusted by the Protocol(**8**) signed at Brussels on 17th March 1993;

"EEA State" means a State which is a Contracting Party to the EEA Agreement;

"effervescent natural mineral water" means natural mineral water which conforms with the supplementary qualifications in Section III of Annex I;

"the exploitation and bottling requirements" means—

(a) the requirements in the first and second unlettered sub-paragraphs of paragraph 2 of Annex II; and

(b) the requirement in regulation 8(5);

"natural mineral water" means water which—

(a) is microbiologically wholesome;

(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 ordinary drinking water by the characteristics referred to in paragraph 1 of Section 1 of Annex 1; and

(d) is for the time being recognised for the purposes of Article 1 pursuant to regulation 4;

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

"parameter" means a property, element, organism or substance listed in the second column of the Tables in Part II of Schedule 3;

"prescribed concentration or value", in relation to any parameter, means the concentration or value specified in relation to that parameter in the Tables in Part II of Schedule 3 as measured by reference to the unit of measurement so specified;

"recognised" means recognised in Northern Ireland;

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

(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 that Directive.

(3) Any reference in these Regulations to a numbered Article or Annex is a reference to the Article or Annex so numbered in Directive 80/777.

(4) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

(**4**) O.J. No. L229, 30.8.80, p. l; as amended by Directive 96/70/EC of the European Parliament and of the Council
(**5**) O.J. No. L229, 23.11.96, p. 26
(**6**) O.J. No. L229, 30.8.80, p. 11
(**7**) O.J. No. L1, 3.1.94, p. l
(**8**) O.J. No. L1, 3.1.94, p. 571
(**9**) 1954 c. 33 (N.I.)

Exemptions

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

(a) has a product licence issued under the provisions of the Medicines Act 1968(**10**) or a marketing authorisation to which the Marketing Authorisations for Veterinary Medicinal Products Regulations 1994(**11**) apply, or a marketing authorisation within the meaning of the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994(**12**);

(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 human consumption; or

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

PART II

Natural mineral water

Recognition as natural mineral water

4.—(1) Water is recognised for the purposes of Article 1 where—

(a) in the case of water extracted from the ground in Northern Ireland, it is recognised for those purposes by a district council, such recognition having been granted in accordance with Part 1 of Schedule 1;

(b) in the case of water extracted from the ground in Great Britain, it is recognised there for those purposes by a responsible authority of Great Britain;

(c) in the case of water extracted from the ground in an EEA State other than the United Kingdom, it is recognised there for those purposes by a responsible authority of that EEA State; and

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

(i) it is recognised for those purposes by the Department, such recognition having been granted in accordance with Part II of Schedule 1; or

(ii) it has an equivalent recognition, given by a responsible authority, in—

(aa) Great Britain; or

(bb) an EEA State other than the United Kingdom.

(2) Where, in relation to any water after it has been recognised for the purposes of Article 1 in accordance with Schedule 1, it is found—

(a) that, by analysis in accordance with Section II of Annex 1, the requirements as to demonstration and determination in paragraph 1.3 of that Section are not met; or

(b) that the exploitation and bottling requirements are not met,

a district council or, as the case may be, the Department, may withdraw that recognition until such time as the said requirements are met.

(3) Where a district council decides either not to grant or to withdraw recognition of a water for the purposes of Article 1 the person who exploits the relevant spring, or if different, the person who

(**10**) 1968 c. 67
(**11**) S.I. 1994/3142; to which there is an amendment not relevant to these Regulations
(**12**) S.I. 1994/3144; to which there is an amendment not relevant to these Regulations

owns land on which the relevant spring is situated, may apply, in the case of a water extracted from the ground in Northern Ireland to the Department for a review of that decision.

(4) Upon an application for review of a decision being made pursuant to paragraph (3) the Department shall make such inquiry into the matter as may seem to it appropriate, and, having considered the results of that inquiry and any relevant facts elicited by it, shall either confirm the decision or direct the district council to grant or restore, as appropriate, recognition of the water in question for the purposes of Article 1, and in the case of such a direction the district council shall thereupon comply with the said direction.

(5) Upon the grant or withdrawal of recognition for the purposes of Article 1 pursuant to this regulation the Department shall inform the Minister of Agriculture, Fisheries and Food of such grant or withdrawal, for onward transmission to the Commission of the European Community.

(6) A person who exploits a spring in Northern Ireland or in a country other than an EEA State from which there is extracted water which is recognised for the purposes of Article 1, such recognition having been granted in accordance with Schedule 1, may apply to the Department or district council, as appropriate, to have that recognition withdrawn.

(7) The publication in the Official Journal of the European Community of the name of any water as that of a natural mineral water recognised in the Community for the purposes of Article 1 shall, save where recognition was granted in accordance with Schedule 1, be conclusive evidence that that water is recognised for the purposes of that Article.

(8) For the purposes of paragraph (3) "relevant spring" means the spring from which, pursuant to a permission given under regulation 6(1)(b) or to the seeking of recognition under the Natural Mineral Waters Regulations (Northern Ireland) 1985(**13**), there is extracted water in respect of which—

(a) an application for recognition for the purposes of Article 1 in accordance with Part I of Schedule 1 has been made but not granted; or

(b) recognition for the purposes of Article 1 has been withdrawn.

(9) Schedule 2 shall have effect for the purposes specified for it in Schedule 1.

Prohibition on sale

5. No person shall sell any water the marking or labelling of which uses the name "natural mineral water" in, or as, the name of the water unless the water is natural mineral water.

Exploitation of natural mineral water springs

6.—(1) No person shall exploit any natural mineral water spring or bottle any water extracted from such a spring unless—

(a) the water extracted from that spring is natural mineral water;

(b) a district council has given permission for that spring to be exploited; and

(c) subject to the final unlettered sub-paragraph of paragraph 2 of Annex II, the exploitation and bottling requirements are met.

(2) No person shall sell any water extracted from a spring which is exploited in contravention of paragraph (1).

Treatments and additions

7.—(1) Subject to paragraph (3) no person shall subject natural mineral water in its state at source to—

(**13**) S.R. 1985 No. 120; amending Regulations are S.R. 1991 Nos 203 and 344, S.R. 1992 No. 464 and S.R. 1996 No 383.

(a) any treatment other than a treatment referred to in sub-paragraph (a) or (d) of Article 4.1; or

(b) any addition other than the introduction or the reintroduction of carbon dioxide under the conditions laid down in Section III of Annex 1.

(2) No person shall sell any natural mineral water which, in its state at source, has been subjected to any treatment or addition in contravention of paragraph (1).

(3) Paragraph (1) shall not prevent the utilisation of natural mineral water in the manufacture of soft drinks.

Colony count and organoleptic defects

8.—(1) No person shall bottle any natural mineral water the revivable total colony count of which, determined under the conditions laid down in paragraph 1.3.3 of Section II of Annex 1—

(a) does not conform to the normal viable colony count of that water; or

(b) shows that the source of that water is contaminated.

(2) No person shall bottle or sell any natural mineral water which contains any of the organisms or substances referred to in Article 5.2.

(3) No person shall sell any bottled natural mineral water—

(a) which was bottled in contravention of paragraph (1);

(b) the total colony count of which fails, or has failed, to comply with the limits specified in paragraph (4)(a);

(c) in respect of which the requirement in paragraph (4)(b) has not been met; or

(d) if—

(i) its revivable total colony count is in excess of that which would result from the normal increase in the bacteria content which it had at source; or

(ii) it contains any organoleptic defect.

(4) For the period of 12 hours following bottling—

(a) the total colony count of water at source shall not exceed—

(i) 100 per ml at 20° to 22°C in 72 hours on agar-agar or an agar-gelatine mixture; and

(ii) 20 per ml at 37°C in 24 hours on agar-agar; and

(b) water shall be maintained at a temperature of 4°C +/−1°C.

(5) Where it is found during exploitation that natural mineral water is polluted and the bottling or sale, as appropriate, of the water would be in contravention of paragraph (1), (2) or (3) the spring from which the water is extracted shall not be exploited nor shall the water be bottled until the cause of the pollution is eradicated and the bottling and sale of the water does not contravene paragraph (1), (2) or (3).

Bottling of natural mineral water

9. No person shall bottle a natural mineral water, or sell a natural mineral water which is bottled, in any container other than a container which is fitted with closures designed to avoid any possibility of adulteration or contamination.

Labelling of natural mineral water

10.—(1) No person shall cause a natural mineral water to be marked or labelled with—

(a) any sales description other than a sales description referred to in paragraph (2);