1985 No. 120

FOOD AND DRUGS

Natural Mineral Waters Regulations (Northern Ireland) 1985

Made . . . . . *22nd May 1985*

Coming into operation—

Regulations 1 to 10 and 14 to 27 *8th July 1985*
Regulations 11, 12 and 13 *8th July 1986*

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The Department of Health and Social Services, being a designated Department(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) in relation to the exploitation and marketing of natural mineral waters, in exercise of the powers conferred on it by the said section 2(2) and of every other power enabling it in that behalf, hereby makes the following regulations:—

PART I

PRELIMINARY

Citation and commencement

1.—(1) These regulations may be cited as the Natural Mineral Waters Regulations (Northern Ireland) 1985.

(2) Regulations 1 to 10 and 14 to 27 shall come into operation on 8th July 1985.

(3) Regulations 11, 12 and 13 shall come into operation on 8th July 1986.

(**a**) Designated by S.I. 1973/1889

(**b**) 1972 c. 68; section 2 is subject to Schedule 2 to the Act and is to be read, as respects Northern Ireland, with Article 8 of the Fines and Penalties (Northern Ireland) Order 1984 (S.I. 1984/703 (N.I. 3)). The Fines and Penalties (Northern Ireland) Order is itself subject to the Criminal Penalties etc. (Increase) Order (Northern Ireland) 1984 (S.R. 1984 No. 253)

Interpretation

2.—(1) In these regulations—

"authorised officer" means an authorised officer of a district council;

"bottle" means a sealed container of any kind in which water is sold to the ultimate consumer;

"carbonated natural mineral water" means an effervescent natural mineral water whose carbon dioxide content derives at least in part from an origin other than the ground water body or deposit from which the water comes;

"commercial designation" means the name under which a natural mineral water is sold, and includes any brand name, trade mark or fancy name;

"the Department" means the Department of Health and Social Services;

"effervescent natural mineral water" means a natural mineral water which spontaneously and visibly gives off carbon dioxide under ambient conditions of temperature and pressure;

"exploit" means, in relation to a source, take water from, and in relation to water, take; in either case for purposes of trade, business or commerce;

"natural mineral water" means water which originates in a ground water body or deposit and is extracted for human consumption from the ground through a spring, well, bore or other exit, and which is recognised for the purposes of these regulations in accordance with paragraph (1), (2), (3), (4) or (7) of regulation 4;

"natural mineral water fortified with gas from the spring" means an effervescent natural mineral water whose carbon dioxide content derives from the same ground water body or deposit as the water and is greater than that established at source;

"naturally carbonated natural mineral water" means an effervescent natural mineral water whose carbon dioxide content is the same after decanting (if it is decanted) and bottling as it was at source, and includes a natural mineral water to which carbon dioxide from the same ground water body or deposit as the water has been added if the amount added does not exceed the amount previously released during decanting or bottling;

"public analyst" has the meaning assigned to it by section 31 of the Food and Drugs Act (Northern Ireland) 1958(**a**);

"sell" includes offer, expose or advertise for sale or have in possession for sale;

"source" means any point of natural emergence or artificial abstraction of ground water;

"ultimate consumer" means any person who buys otherwise than—

(*a*) for the purpose of resale,

(*b*) for the purposes of a catering establishment, or

(*c*) for the purposes of a manufacturing business.

(2) The Interpretation Act (Northern Ireland) 1954(**b**) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

Exemptions

3.—(1) These regulations shall not apply to any natural mineral water which—

(*a*) is intended at the time of sale for export to any place outside the European Economic Community,

(a) 1958 c. 27 (N.I.)
(b) 1954 c. 33 (N.I.)

(*b*) is supplied under Government contracts for consumption by Her Majesty's forces or supplied for consumption by a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952(**a**),

(*c*) has a product licence issued under the provisions of the Medicines Act 1968(**b**),

(*d*) is used at source for curative purposes in thermal or hydromineral establishments, or

(*e*) is not intended for sale for human consumption.

(2) Regulations 11, 12 and 13 and Schedule 3 shall not apply to any natural mineral water intended for sale in Great Britain or for export to any other place within the European Economic Community.

PART II

RECOGNITION AND EXPLOITATION OF NATURAL MINERAL WATERS

Recognition as natural mineral water

4.—(1) Water originating in Northern Ireland shall not be recognised as a natural mineral water for the purposes of these regulations unless it has been so designated by a district council in accordance with Part I of Schedule 1 or paragraph (7).

(2) Water originating in Great Britain shall not be recognised as a natural mineral water for the purposes of these regulations unless it has been so designated by a responsible authority of Great Britain.

(3) Water originating in any member state of the European Economic Community other than the United Kingdom shall not be recognised as a natural mineral water for the purposes of these regulations unless it has been so designated by a responsible authority of that member state.

(4) Water originating in a country outside the European Economic Community shall not be recognised as a natural mineral water for the purposes of these regulations unless it has been so designated by a responsible authority of Great Britain or of a member state of that Community other than the United Kingdom or, in accordance with Part II of Schedule 1, by the Department.

(5) The publication in the Official Journal of the European Communities of the name of any water as that of a recognised natural mineral water shall be conclusive evidence that that water has been so recognised.

(6) If at any time after its recognition as a natural mineral water on being designated as such by a district council or by the Department under paragraph (1) or paragraph (4) respectively or by a district council on the Department's direction in accordance with paragraph (7), any water originating in Northern Ireland or in a country outside the European Economic Community is found not to meet any one or more of the standards required for such recognition by Part I of Schedule 1, or any one or more of the requirements of Schedule 2 in connection with the exploitation of the water, a district council or, as the case may be, the Department, may withdraw that recognition until such time as the said standards or requirements are fully met, and during that period of withdrawal of recognition that water shall cease to be recognised as a natural mineral water for the purposes of these regulations.

(7) A person aggrieved by a decision of a district council either not to grant or to withdraw recognition of a water as a natural mineral water for the purposes of these regulations may apply to the Department for a review of that decision, and upon such application being made the Department shall make such inquiry into the matter as

(**a**) 1952 c. 67
(**b**) 1968 c. 67

may seem to it appropriate, and, having considered the results of that inquiry and any relevant facts elicited by it, shall either confirm the said decision or direct the district council to grant or restore recognition of the water in question as a natural mineral water, and in the latter case the district council shall thereupon comply with the said direction.

(8) Upon the grant or withdrawal of recognition of any water as a natural mineral water 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 Economic Community.

Conditions for exploitation of natural mineral water sources

5. A person shall not exploit a natural mineral water source or bottle or sell any water from such a source unless the requirements of Schedule 2 are satisfied.

Authorised treatments

6.—(1) Subject to paragraph (3), a person shall not use any treatment, whether for disinfection or for any other purpose, in the processing of a natural mineral water, or add anything thereto, other than—

(*a*) filtration or decanting, preceded if necessary by oxygenation, provided that such treatment does not alter the composition of the water in respect of its stable constituents and is not intended to change its total viable colony count;

(*b*) the total or partial elimination of carbon dioxide by exclusively physical methods;

(*c*) the addition of carbon dioxide, provided that the water is marked or labelled with the appropriate description in accordance with regulation 11.

(2) Subject to paragraph (3), a person shall not bottle or sell any natural mineral water which has been subjected to any treatment other than those authorised by paragraph (1).

(3) This regulation shall not prevent the utilisation of a natural mineral water in the manufacture of soft drinks or its sale for the purpose of such utilisation.

Microbiological criteria

7.—(1) A person shall not—

(*a*) bottle or sell any natural mineral water which fails to meet the criteria provided in paragraphs (2) and (4);

(*b*) sell any natural mineral water which fails to meet the criteria provided in paragraph (3).

(2) At source, the total viable colony count shall conform to the water's normal viable colony count and give satisfactory evidence of the protection of that source against all contamination. The total viable colony count shall be measured on agar-agar or an agar-gelatine mixture at 20°-22°C in 72 hours and at 37°C in 24 hours on agar-agar.

(3) After bottling, the total viable colony count shall not exceed 100 per ml at 20°-22°C in 72 hours on agar-agar or an agar-gelatine mixture and 20 per ml at 37°C in 24 hours on agar-agar. The total viable colony count shall be measured within the 12 hours after bottling, the water being maintained at 4°C ± 1°C during this period. Thereafter, up to and including the point of sale, the total viable colony count shall be no more than that which results from the normal increase in the bacterial content which the water had at source.

(4) At source and thereafter, up to and including the point of sale, a natural mineral water shall be free from—

(*a*) parasites and pathogenic micro-organisms;