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STATUTORY RULES OF NORTHERN IRELAND

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**1999 No. 301**

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

**PART IV**

Miscellaneous and supplemental

**Enforcement**

- 13.**—(1) Each district council shall enforce and execute these Regulations within its district.
- (2) Each district council shall, within its district—
- (a) carry out periodic checks on any water which, for the purposes of Article 1.1 and in accordance with Part 1 of Schedule 1, has been recognised as a natural mineral water to ensure—
    - (i) that the water is natural mineral water which complies with paragraph 3 of Section 1 of Annex 1 and has had its characteristics assessed in accordance with paragraph 2 of that Section as called for by paragraph 4(b) of Annex II; and
    - (ii) that, subject as specified in regulation 6(1)(c), the exploitation and bottling requirements are met in relation to the water.

**Analysis**

- 14.**—(1) An authorised officer who has procured a sample under Article 29 of the Order and who considers that it should be analysed for the purposes of these Regulations shall deal with the sample in accordance with this regulation and for the purposes of this regulation “sample” includes one or more bottles of any water.
- (2) The authorised officer shall forthwith divide the sample into three parts, each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall—
- (a) with respect to one part of the sample comply with paragraphs (3) to (6), and
  - (b) deal with the remaining parts in accordance with paragraph (7).
- (3) If the sample was purchased by the authorised officer, he shall give the part of the sample to the person from whom it was purchased.
- (4) If the sample is a sample of water brought into Northern Ireland and was taken by the authorised officer before delivery to a person who intends to sell that water in Northern Ireland, the officer shall give the part of the sample to that person.
- (5) If neither paragraph (3) nor paragraph (4) applies, the authorised officer shall give the part of the sample to the person appearing to be the owner of the water from which the sample was taken.
- (6) In every case to which paragraphs (3) to (5) apply the authorised officer shall inform the person to whom the part of the sample is given that the sample was purchased or taken, as appropriate, for the purpose of analysis by a public analyst.

(7) Of the remaining parts of the sample, the authorised officer shall, unless he decides not to have an analysis made, submit one for analysis in accordance with Article 30 of the Order, and retain the other.

(8) Any part of a sample which under this regulation is to be given to any person may be given by delivering it to him or to his agent or by sending it to him by registered post or the recorded delivery service; but where after reasonable enquiry the authorised officer is unable to ascertain the name and address of the person to whom the part of the sample is to be given he may, in lieu of giving the part to that person, retain it.

(9) If it appears to the authorised officer that any water, of which he has procured a sample for the purpose of analysis by a public analyst, was exploited or bottled by a person (not being a person to whom one part of the sample is required to be given by this regulation) having his name and an address in the United Kingdom displayed on the bottle or any other container thereof, the officer shall, unless he decides not to have an analysis made, within three days of procuring the sample send to that person a notice informing him—

- (a) that the sample has been procured by the officer, and
- (b) where the sample was taken or, as the case may be, from whom it was purchased.

(10) Where a sample taken or purchased, as appropriate, by an authorised officer has been analysed by a public analyst, any person to whom a part of the sample was given under this regulation shall be entitled, upon request to the relevant district council, to be supplied with a copy of the certificate of analysis by that council.

**15.** An authorised officer who has retained part of a sample shall submit it to the Government Chemist (or such other food analyst as the Government Chemist may direct) for analysis if—

- (a) he and the person to whom a part of the sample was given under this regulation so agree (which agreement may include who is to pay the analysis fees), or
- (b) a court so orders.

**16.** Methods of analysis which accord with Article 12.5 of Directive 80/778 shall be used for the purposes of determining whether water satisfies the provisions of Schedule 3.

### **Offences and penalties**

**17.** A person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale if he contravenes regulation 5, 6, 7, 8, 9, 10(1) or (5), 11(1) or (3), 12 or 19(3).

### **Defences**

**18.—(1)** In any proceedings for an offence under these Regulations, other than in relation to natural mineral water, it shall be a defence for the person charged to prove—

- (a) that the water in respect of which the offence was alleged to have been committed was intended for export to a country which has legislation analogous to these Regulations and that it complies with that legislation; and
- (b) if the water was intended for export to an EEA State, that—
  - (i) in the case of water marked or labelled with the term “spring water”, the legislation complies with the provisions of Directives 80/777 and 80/778; and
  - (ii) in the case of bottled drinking water, the legislation complies with the provisions of Directive 80/778.

(2) In any proceedings for an offence under these Regulations in relation to the sale of any water other than drinking water it shall be a defence for the person charged to prove that—

- (a) the water in respect of which the offence is alleged to have been committed was placed on the market or labelled, as the case may be, before 28th October 1998; and
  - (b) if it had been committed before the date these Regulations came into operation the act alleged to constitute the offence would not have constituted an offence under—
    - (i) in the case of natural mineral water, the Natural Mineral Waters Regulations (Northern Ireland) 1985; or
    - (ii) in the case of water marked or labelled with the description “spring water”, the Drinking Water in Containers Regulations (Northern Ireland) 1994(1).
- (3) In any proceedings for an offence under these Regulations in which it is alleged that any natural mineral water is marked or labelled in contravention of sub-paragraph (d), (f) or (g) of regulation 10(1) it shall be a defence for the person charged to show—
- (a) where the natural mineral water is recognised in Northern Ireland, that—
    - (i) the water is intended for export to an EEA State; and
    - (ii) the water is marked or labelled with no indication within the meaning of Article 9.2 other than one which is authorised in that State in accordance with that Article for use in relation to that water; and
  - (b) where the natural mineral water is recognised in an EEA State other than the United Kingdom, the water is marked or labelled with no indication within the meaning of Article 9.2 other than one which is authorised in that State in accordance with that Article for use in relation to that water.

### **Application of other provisions**

**19.**—(1) The following provisions of the Order shall apply for the purposes of these Regulations and any reference in them to the Order shall be construed as a reference to these Regulations –

- (a) Articles 2(4) and 3 (extended meaning of “sale” etc.);
- (b) Article 4 (presumptions that food intended for human consumption);
- (c) Article 19 (offences due to fault of another person);
- (d) Article 20 (defence of due diligence) as it applies for the purposes of Article 7, 13 or 14 of the Order;
- (e) Article 21 (defence of publication in the course of business);
- (f) Article 30(8) (which relates to documentary evidence);
- (g) Article 34 (obstruction, etc., of officers);
- (h) Article 36 (punishment of offences) in so far as it relates to offences under Article 34(1) and (2) as applied by paragraph (g).

(2) In so far as regulation 38 (intelligibility) of the Food Labelling Regulations (Northern Ireland) 1996(2) would not otherwise cover any name, description, indication, information or other wording with which water is required or permitted by these Regulations to be marked or labelled, it shall apply for the purposes of these Regulations with the modification that the words “the particulars with which a food is required to be marked or labelled by these Regulations” shall be construed so as to cover them.

(3) No person shall sell any water to which these Regulations apply if it is not marked or labelled in accordance with regulation 38 of the Food Labelling Regulations (Northern Ireland) 1996 as applied by paragraph (2).

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(1) [S.R. 1994 No. 185](#)

(2) [S.R. 1996 No. 383](#), to which there are amendments not relevant to these Regulations

## Amendments

**20.**—(1) In the Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 1991<sup>(3)</sup> in Schedule 1 (provisions to which those Regulations do not apply) the title of the Natural Mineral Waters Regulations (Northern Ireland) 1985 in the left hand column and their reference in the right hand column shall be omitted and at the end of that Schedule there shall be added in the left hand column the title of these Regulations and in the right hand column their reference.

(2) In the Food Safety (General Food Hygiene) Regulations (Northern Ireland) 1995<sup>(4)</sup> in paragraph (1) of regulation 2 (interpretation) in the definition of “water”—

(a) for paragraph (a) there shall be substituted—

“(a) natural mineral water or drinking water within the meaning of the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 1999; or”;

(b) the word “or” at the end of paragraph (b) shall be omitted; and

(c) paragraph (c) shall be omitted.

(3) In the Food Labelling Regulations (Northern Ireland) 1996 in paragraph (1) of regulation 2 (interpretation) in the definition of “natural mineral water” for “Natural Mineral Waters Regulations (Northern Ireland) 1985” there shall be substituted “Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 1999”.

## Revocations

**21.** The statutory provisions specified in columns 1 and 2 of Schedule 4 shall be revoked to the extent specified in column 3 of that Schedule.

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<sup>(3)</sup> S.R. 1991 No. 198 as amended by S.R. 1995 No. 201, S.R. 1998 No. 237 and S.R. 1998 No. 264

<sup>(4)</sup> S.R. 1995 No. 360, to which there are amendments not relevant to these Regulations