
STATUTORY RULES OF NORTHERN IRELAND

1999 No. 301

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

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;

“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⁽¹⁾ as amended by Directive [96/70/EC](#) of the European Parliament and of the Council⁽²⁾;

“Directive 80/778” means Council Directive [80/778/EEC](#) relating to the quality of water intended for human consumption⁽³⁾;

“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⁽⁴⁾ signed at Oporto on 2nd May 1992, as adjusted by the Protocol⁽⁵⁾ 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

(1) O.J. No. L229, 30.8.80, p. 1; as amended by Directive [96/70/EC](#) of the European Parliament and of the Council

(2) O.J. No. L229, 23.11.96, p. 26

(3) O.J. No. L229, 30.8.80, p. 11

(4) O.J. No. L1, 3.1.94, p. 1

(5) O.J. No. L1, 3.1.94, p. 571

- (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(6) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

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(7) or a marketing authorisation to which the Marketing Authorisations for Veterinary Medicinal Products Regulations 1994(8) apply, or a marketing authorisation within the meaning of the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994(9);
 - (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—

(6) 1954 c. 33 (N.I.)

(7) 1968 c. 67

(8) S.I.1994/3142; to which there is an amendment not relevant to these Regulations

(9) S.I. 1994/3144; to which there is an amendment not relevant to these Regulations

- (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 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(10), there is extracted water in respect of which—

(10) 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) 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—

- (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);
 - (b) a trade description which—
 - (i) includes the name of a locality, hamlet or place where the inclusion of that name is not in accordance with Article 8.1; or
 - (ii) is different from the name of the spring or the place of its exploitation other than in accordance with the requirements of Article 8.3;
 - (c) 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(a);
 - (d) any indication (other than those specified in sub-paragraphs (f) and (g)) attributing to the natural mineral water properties relating to the prevention, treatment or cure of a human illness;
 - (e) any indication listed in column 1 of Annex III if a criterion appears in column 2 of that Annex opposite the indication and the natural mineral water does not meet that criterion;
 - (f) the indication “may be diuretic” or “may be laxative” unless the natural mineral water has been assessed as possessing the property attributed by the indication in accordance with physico-chemical analysis and pharmacological, physiological or clinical examination, as appropriate; or
 - (g) the indication “stimulates digestion” or “may facilitate the hepato-biliary functions” unless the natural mineral water has been assessed as possessing the property attributed by the indication in accordance with physico-chemical analysis and pharmacological, physiological and clinical examination.
- (2) The sales description of natural mineral water shall be—
- (a) in the case of a natural mineral water other than an effervescent natural mineral water, “natural mineral water”; and

- (b) in the case of an effervescent natural mineral water, the description in sub-paragraph (a), (b) or (c) of Section III of Annex I within which the water falls.
- (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; and
 - (b) the mandatory information referred to in paragraph (4).
- (4) The mandatory information for natural mineral waters is—
 - (a) a statement of the analytical composition which statement shall indicate the characteristic constituents of the water; and
 - (b) the name of the place where the spring is exploited and the name of the spring.
- (5) No person shall sell any natural mineral water which—
 - (a) is marked or labelled in contravention of paragraph (1);
 - (b) has undergone any of the treatments referred to in paragraph (3)(a) unless it is marked or labelled with the appropriate indication in accordance with that paragraph;
 - (c) is not marked or labelled with the mandatory information referred to in paragraph (4); or
 - (d) is marked or labelled with a trade description which is different from the trade description with which any other natural mineral water from the same spring is marked or labelled.

PART III

Spring water and bottled drinking water

Spring water

11.—(1) No person shall cause any water to be marked or labelled with the description “spring water” unless—

- (a) that water is extracted from a spring;
- (b) subject to paragraph (2), that water would, if it were natural mineral water, meet the exploitation and bottling requirements;
- (c) that water would, if it were natural mineral water, be capable of being bottled or sold, as appropriate, without contravening the provisions of regulation 8;
- (d) that water is or has been bottled at source and, if it has not undergone any treatment, is intended for consumption in its natural state;
- (e) that water is marked or labelled with the name of the place where the spring is exploited and the name of the spring;
- (f) where that water is marked or labelled with any trade description, the water would, if it were natural mineral water, comply with the requirements of Article 8; and
- (g) that water satisfies the requirements of Schedule 3.

(2) Water marked or labelled with the description “spring water” which is transported from the spring to the bottling plant in containers other than those for distribution to the ultimate consumer shall not, for that reason, 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.

- (3) No person shall sell any water which is marked or labelled in contravention of paragraph (1).

Bottled drinking water

12.—(1) No person shall bottle any water or sell any bottled drinking water unless it satisfies the requirements of Schedule 3.

(2) No person shall cause any water which does not satisfy the provisions of Section 1 of Annex 1, and which is bottled, to be 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).

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⁽¹¹⁾.
- (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⁽¹²⁾ 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).

(11) S.R. 1994 No. 185

(12) 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(**13**) 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(**14**) 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.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland
on

L.S.

30th June 1999.

W. B. Smith
Assistant Secretary

(13) S.R. 1991 No. 198 as amended by S.R. 1995 No. 201, S.R. 1998 No. 237 and S.R. 1998 No. 264

(14) S.R. 1995 No. 360, to which there are amendments not relevant to these Regulations