

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(a) 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(b) 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(c), 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(d) 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”,

(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(e);”,

(a) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I. 1), Article 3

(b) 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

(c) O.J. No. L31, 1.2.2002, p. 1

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

(e) O.J. No. L330, 5.12.98, p. 32

- (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 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
- (c) in paragraph (3), before “marked or labelled”, wherever it appears, there shall be inserted “bottled in a bottle”.

14. In paragraph (3) of regulation 19 (application of other provisions), for “it” there shall be substituted “the bottle in which it is bottled”.

15.—(1) Subject to paragraph (2), in paragraph 2(c) of each of Parts I and II of Schedule 1 (recognition of natural mineral waters), after “numbers 1 to 9” there shall be inserted “ and 12”.

(2) Before 25th December 2003, paragraph 2(c) in each of Parts I and II of Schedule 1 shall have effect as if the amendments made by paragraph 1 and regulation 19 had not been made.

16. In Schedule 2 (particulars of anions, cations, non-ionised compounds and trace elements) in the entry in the second column opposite to the entry in the first column relating to Fluoride F, for “µg/l” there shall be substituted “mg/l”.

17. In paragraph 1 of Part I of Schedule 3 (requirements for spring water and drinking water including prescribed concentrations or values of parameters) –

- (a) for sub-paragraph (a) there shall be substituted the following sub-paragraphs –
 - “(a) the water does not contain –
 - (i) any micro-organism (other than a parameter) or parasite, or
 - (ii) any property, element or substance (other than a parameter),
 at a concentration or value which would constitute a potential danger to human health;
 - (aA) the water does not contain any substance (whether or not a parameter) at a concentration or value which, in conjunction with any other property, element, substance or organism it contains (whether or not a parameter), would constitute a potential danger to human health;”;
- (b) for sub-paragraph (b) there shall be substituted the following sub-paragraph –
 - “(b) the water does not contain concentrations or values of any of the parameters listed in Tables A to D in Part II in excess of the prescribed concentrations or values; and”;
- (c) in sub-paragraph (c), the words from “and its alkalinity” to the end shall be deleted.

18. For Table A in Part II of Schedule 3 (prescribed concentrations or values of spring water and drinking water) and the note attached to it there shall be substituted the following provisions –

“TABLE A

Column 1 <i>Item</i>	Column 2 <i>Parameters</i>	Column 3 <i>Units of measurement</i>	Column 4 <i>Concentration or value (maximum unless otherwise stated)</i>
1.	Colour	mg/l Pt/Co scale	20
2.	Turbidity	NTU	4
3.	Odour	Dilution number	3 at 25°C
4.	Taste	Dilution number	3 at 25°C
5.	Sulphate	mg SO ₄ /l	250
6.	Sodium	mg Na/l	200
7.	Nitrate	Mg NO ₃ /l	50 (note 1)
8.	Nitrite	mg NO ₂ /l	0.5 (note 1)
9.	Aluminium	µg Al/l	200
10.	Copper	mg Cu/l	2
11.	Fluoride	mg F/l	1.5
12.	Hydrogen ion concentration	pH units	6.5 (minimum) 9.5 (maximum)
13.	Tritium (for radioactivity)	Bq/l	100
14.	Total indicative dose	mSv/year	0.10 (note 2)
15.	Manganese	µg Mn/l	50

Note 1: The concentration (mg/l) of nitrate divided by 50 added to the concentration (mg/l) of nitrite divided by 3 must not exceed 1.

Note 2: Excluding tritium, potassium – 40, radon and radon decay products.”.

19. For Table B in Part II of Schedule 3 and the notes attached to it there shall be substituted the following provisions –

“TABLE B

Column 1 <i>Item</i>	Column 2 <i>Parameters</i>	Column 3 <i>Units of measurement</i>	Column 4 <i>Maximum concentration</i>
1.	Arsenic	µg As/l	10
2.	Cadmium	µg Cd/l	5
3.	Cyanide	µg CN/l	50
4.	Chromium	µg Cr/l	50
5.	Mercury	µg Hg/l	1
6.	Nickel	µg Ni/l	20
7.	Selenium	µg Se/l	10
8.	Antimony	µg Sb/l	5
9.	Lead	µg Pb/l	10

Column 1 <i>Item</i>	Column 2 <i>Parameters</i>	Column 3 <i>Units of measurement</i>	Column 4 <i>Maximum concentration</i>
10.	Pesticides and related products: (a) individual substances (b) total substances	$\mu\text{g/l}$ $\mu\text{g/l}$	0.10 (notes 1 and 2) 0.50 (notes 1 and 3)
11.	Polycyclic aromatic hydrocarbons	$\mu\text{g/l}$	0.1 sum of concentrations of specified compounds (note 4)
12.	Bromate	$\mu\text{g BrO}_3/\text{l}$	10

Note 1: "Pesticides" means:
 – organic insecticides,
 – organic herbicides,
 – organic fungicides,
 – organic nematocides,
 – organic acaricides,
 – organic algicides,
 – organic rodenticides,
 – organic slimicides,

related products (inter alia, growth regulators) and their relevant metabolites, degradation and reaction products.

Only those pesticides which are likely to be present in a given water need to be monitored.

Note 2: The maximum concentration applies to each individual pesticide. In the case of aldrin, dieldrin, heptachlor and heptachlor epoxide the maximum concentration is 0.030 mg/l.

Note 3: The maximum concentration for "total substances" refers to the sum of the concentrations of all individual pesticides detected and quantified in the monitoring procedure.

Note 4: The specified compounds are benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(ghi)perylene, indeno(1,2,3-cd) pyrene."

20. For Table C in Part II of Schedule 3 and the notes attached to it there shall be substituted the following provisions –

"TABLE C

Column 1 <i>Item</i>	Column 2 <i>Parameters</i>	Column 3 <i>Units of measurement</i>	Column 4 <i>Maximum or concentration</i>
1.	<i>Escherichia coli</i> (<i>E.coli</i>)	number/250 ml	0/250 ml
2.	Enterococci	number/250 ml	0/250ml
3.	Colony count 22°C	number/ml	100/ml (notes 1 and 2)
4.	Colony count 37°C	number/ml	20/ml (notes 1 and 3)
5.	<i>Pseudomonas aeruginosa</i>	number/250ml	0/250 ml

Note 1: The total viable colony count should be measured within 12 hours of bottling, with the sample water being kept at a constant temperature during that 12 hour period. Any increase in the total viable colony count of the water between 12 hours after bottling and the time of sale should not be greater than that normally expected.

Note 2: In 72 hours on agar-agar or an agar-gelatine mixture.

Note 3: In 24 hours on agar-agar."

21. For Table D in Part II of Schedule 3 there shall be substituted the following provisions –

“TABLE D

Column 1 <i>Item</i>	Column 2 <i>Parameters</i>	Column 3 <i>Units of measurement</i>	Column 4 <i>Maximum concentration</i>
1.	Boron	mg B/l	1.0
2.	Benzo (a) pyrene	µg/l	0.010
3.	Tetrachloroethene and Trichloroethene	µg/l	10 (note 1)
4.	Tetrachloromethane	µg/l	3
5.	Benzene	µg/l	1.0
6.	1,2 dichloroethane	µg/l	3.0
7.	Trichloromethane Dichlorobromomethane, Dibromochloromethane and Tribromomethane	µg/l	100 (note 1)
8.	Epichlorohydrin	µg/l	0.10 (note 2)
9.	Vinyl chloride	µg/l	0.50 (note 2)
10.	Acrylamide	µg/l	0.10 (note 2)

Note 1: The maximum concentration specified applies to the sum of the concentrations of the specified parameters.

Note 2: The parametric value refers to the residual monomer concentration in the water as calculated according to specifications of the maximum release from the corresponding polymer in contact with the water.”.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 19th March 2003.

(L.S.)

D. Kenny

A Senior Officer of the Department of Health, Social Services and Public Safety

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations, which amend the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 1999 (S.R. 1999 No. 301 “the principal Regulations”), implement, in relation to spring water and bottled drinking water, Council Directive 98/83/EC relating to the quality of water intended for human consumption (O.J. No. L330, 5.12.1998, p. 32).

These Regulations amend the principal Regulations by –

- (a) in regulation 2(1) (the main interpretation provision), amending the definitions of “bottle”, “parameter” and “prescribed concentration or value”, inserting a definition of “Directive 98/83” and substituting a new definition of “drinking water” (regulation 3(a)),
- (b) substituting a revised version of regulation 2(2), so as to remove otiose wording and make a drafting improvement (regulation 3(b)),
- (c) adding a transitional provision (regulation 2(5)) which lays down how the terms “Schedule 3”, “parameter” and “prescribed concentration or value”, as used in regulation 2(1), are to be construed prior to 25th December 2003 (regulation 3(c)),
- (d) inserting a provision (regulation 2(6)) prescribing how references in the principal Regulations to the marking or labelling of a bottle are to be construed (regulation 3(c)),
- (e) modifying the wording of paragraph (c) of regulation 3 (exemptions) (regulation 4),
- (f) modifying paragraph (2) of regulation 4 (recognition as natural mineral water) by including in it an additional ground on which recognition of water as a natural mineral water may be withdrawn (regulation 5(a)),
- (g) substituting a revised version of paragraph (5) of regulation 4 so as to impose an obligation on district councils to inform the Food Standards Agency when they recognise or withdraw recognition of water as a natural mineral water (regulation 5(b)),
- (h) inserting a requirement (new regulation 4(7A)) that district councils have to inform the Food Standards Agency of notifications to them of changes as regards trade descriptions of natural mineral water or names of springs or origin (regulation 5(c)),
- (i) clarifying regulations 5 (prohibition on sale) and 10 (labelling of natural mineral water) (regulations 6 and 7),
- (j) substituting a revised version of regulation 11 (spring water) so as to modify the requirements relating to the bottling and sale of spring water and the marking and labelling of bottles bearing the description “spring water”; adding a transitional provision laying down how the term “Schedule 3”, as used in regulation 11, is to be construed prior to 25th December 2003; and adding a mutual recognition provision in respect of spring water bottled in an EEA State other than the United Kingdom (regulation 8),
- (k) substituting a revised version of regulation 12 (bottled drinking water) so as to modify the requirements relating to the bottling and sale of bottled drinking water; adding a transitional provision laying down how the term “Schedule 3”, as used in regulation 12, is to be construed prior to 25th December 2003; and adding a mutual recognition provision in respect of bottled drinking water bottled in an EEA State other than the United Kingdom (regulation 9),
- (l) substituting a revised version of paragraph (1) of regulation 13 (enforcement) so as to impose an obligation on district councils, from 25th December 2003, to monitor the quality of spring water and bottled drinking water in accordance with specified requirements of Directive 98/83/EC (regulation 10(a)),
- (m) revising the criteria by reference to which water has to be assessed as part of the periodic checks required to be carried out on it to ensure that it is a natural mineral water which are set out in regulation 13(2) (regulation 10(b)),
- (n) substituting a revised version of regulation 16 so as to provide that, with effect from 25th December 2003, the methods of analysis used to check compliance of spring water

and bottled drinking water with Schedule 3 have to be carried out in accordance with Article 7.5 of Directive 98/83/EC (regulation 11),

- (o) making consequential changes to regulations 17 and 18, which provide respectively for offences and penalties and defences (regulations 12 and 13),
- (p) making a minor clarifying amendment to regulation 19(3) (which prohibits the sale of bottles of natural mineral water, spring water or bottled drinking water which are not marked or labelled in accordance with regulation 38 of the Food Labelling Regulations (Northern Ireland) 1996) (regulation 14),
- (q) revising, from 25th December 2003, the particulars specified in Parts I and II of Schedule 1 (particulars required to be given by a person applying to have a water recognised as a natural mineral water) (regulation 15),
- (r) correcting a typographical error in Schedule 2 (particulars of anions, cations, non-ionised compounds and trace elements) (regulation 16), and
- (s) revising the requirements as regards spring water and bottled drinking water, including the requirements as regards prescribed concentrations or values of parameters, contained in Schedule 3 (regulations 17 to 21).

These Regulations include provisions notified to the European Commission under Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on information society services (O.J. No. L204, 21.7.1998, p. 37).

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