
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 365

The Natural Mineral Water, Spring Water and Bottled
Drinking Water Regulations (Northern Ireland) 2015

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015 and come into operation on 28th November 2015.

Interpretation

2.—(1) In these Regulations—

“advertisement” means a representation in any form in connection with a trade or business in order to promote the supply of goods;

“The Agency” means the Food Standards Agency;

“authorised officer” has the same meaning as in Article 2(2)(a) of the Order;

“bottle” means a closed container of any kind in which water is sold for drinking by humans or from which water sold for drinking by humans is derived;

“Directive 98/83” means Council Directive [98/83/EC](#) on the quality of water intended for human consumption⁽¹⁾;

“Directive 2003/40” means Commission Directive [2003/40/EC](#) establishing the list, concentration limits and labelling requirements for the constituents of natural mineral waters and the conditions for using ozone-enriched air for the treatment of natural mineral waters and spring waters⁽²⁾;

“Directive 2009/54” means Directive [2009/54/EC](#) of the European Parliament and of the Council on the exploitation and marketing of natural mineral waters⁽³⁾(Recast);

“Directive 2013/51” means Council Directive 2013/51/EURATOM laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption⁽⁴⁾;

“drinking water” means water which is intended for sale for drinking by humans other than—

- (a) natural mineral water; or
- (b) water intended to be labelled and sold as “spring water”;

(1) OJ No L 330, 5.12.98 p 32, last amended by Commission Directive (EU) 2015/1787 (OJ No L 260 7.10.15, p 6)

(2) OJ No L 126, 22.5.03, p 34

(3) OJ No L 164, 26.6.09, p 45

(4) OJ No L 296, 7.11.2013, p 12

“EEA State” means a Member State of the European Union, Norway, Iceland and Liechtenstein;

“effervescent natural mineral water” means natural mineral water which, at source or after bottling, gives off carbon dioxide spontaneously and in a clearly visible manner under normal conditions of temperature and pressure;

“fluoride removal treatment” means—

- (a) a treatment of natural mineral water or water intended to be bottled and labelled as “spring water” with activated alumina in order to remove fluoride which is authorised in accordance with regulations 9(1)(a)(iii), or 15(1)(a)(iii) and Schedule 2; or
- (b) in the case of water brought into Northern Ireland from another part of the United Kingdom or from another EEA state, a treatment which complies with Articles 1 to 3 of Regulation 115/2010;

“label” means any tag, brand, mark, pictorial or other descriptive matter which is written, printed, stencilled, marked, embossed or impressed on, or attached to the bottle of water;

“natural mineral water” means water which—

- (a) is microbiologically wholesome within the meaning of Article 5 of Directive 2009/54,
- (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 drinking water on account of the following characteristics having been preserved intact because of the underground origin of the water, which has been protected from all risk of pollution—
 - (i) its nature, which is characterised by its mineral content, trace elements or other constituents and, where appropriate, by certain effects, and
 - (ii) its original purity; and
- (d) is for the time being recognised pursuant to and in accordance with regulation 4;

“ozone-enriched air treatment” means—

- (a) a treatment of natural mineral water or water intended to be bottled and labelled as “spring water” with ozone-enriched air which is authorised in accordance with regulation 9(1)(a)(iv) or regulation 15(1)(a)(iv) and Schedule 3, or
- (b) in the case of water brought into Northern Ireland from other parts of the United Kingdom or from another EEA State, a treatment which complies with Article 5 of Directive 2003/40, as implemented in that part of the United Kingdom or that EEA State;

“the Order” means the Food Safety (Northern Ireland) Order 1991;

“parameter” means a property, element, organism or substance listed in the second column of any table in Part 2, 3 or 4 of Schedule 7;

“Regulation 115/2010” means Commission Regulation (EU) No 115/2010 laying down the conditions for use of activated alumina for the removal of fluoride from natural mineral waters and spring waters(5); and

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

(2) Expressions used in these Regulations that are also used in Directive 98/83, Directive 2009/54, Regulation 115/2010 or Directive 2013/51 have the same meaning in these Regulations as they have in those Directives or the Regulation.

(3) References to the Annexes to Directive 98/83, Directive 2003/40, Directive 2009/54, Regulation 115/2010 and Directive 2013/51 are references to those Annexes as amended from time to time.

(4) Any reference in these Regulations to the labelling of a bottle includes both labelling done before any water is bottled, and labelling after bottling.

(5) The Interpretation Act (Northern Ireland) 1954⁽⁶⁾ applies to these Regulations as it applies to an Act of the Assembly.

Exemptions

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

- (a) is a medicinal product within the meaning of Directive 2001/83 of the European Parliament and of the Council on the Community code relating to medicinal products for human use⁽⁷⁾;
 - (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 drinking by humans; or
 - (d) is a natural mineral water intended for export to a country other than an EEA State.
- (2) These Regulations do not apply to packaged ice portions intended for use in cooling food.

PART 2

Natural mineral water

Recognition as natural mineral water

4.—(1) Natural mineral water may only be sold as natural mineral water if it is recognised in accordance with paragraph (2).

(2) Water is recognised as natural mineral water where—

- (a) in the case of water extracted from the ground in Northern Ireland, the district council grants recognition in accordance with Part 1 of Schedule 1;
- (b) in the case of water extracted from the ground in another part of the United Kingdom, the responsible authority of that part of the United Kingdom recognises it pursuant to Directive 2009/54;
- (c) in the case of water extracted from the ground in an EEA State other than the United Kingdom, a responsible authority of that EEA State recognises it pursuant to Directive 2009/54;
- (d) in the case of water extracted from the ground in a country other than an EEA State—
 - (i) the Agency grants recognition in accordance with Part 2 of Schedule 1;
 - (ii) it has an equivalent recognition, given by a responsible authority of another part of the United Kingdom, or an EEA State other than the United Kingdom.

(3) The publication in the Official Journal of the European Union of the name of any water as a natural mineral water recognised in the European Union for the purposes of Directive 2009/54 is

⁽⁶⁾ 1954 c.33 (NI)

⁽⁷⁾ OJ No L 311, 28.11.2001 p 67, last amended by Directive 2012/26/EU (OJ No L 299 27.10.2012, p 1)

conclusive evidence that that water is recognised for the purposes of that Directive, except where recognition is granted in accordance with Schedule 1.

Declining to grant or withdrawing recognition

5.—(1) Where, in relation to any water that has been recognised under regulation 4(2)(a) or 4(2)(d)(i) it is found that—

- (a) by analysis in accordance with Part 3 of Schedule 1, the requirements of paragraph 3 of that Part are not met;
- (b) the requirements of Schedule 4 are not met; or
- (c) the content of the water is not in accordance with Part 1, paragraph 1(c) or Part 2, paragraph 1(c) of Schedule 1.

the district council or, as the case may be, the Agency may withdraw that recognition until such time as the requirements concerned are met.

(2) Where the district council or the Agency declines to grant or withdraws recognition of a water, the person who exploits or wishes to exploit the spring from which that water emerges or, if different, the person who owns the land on which that spring is situated may within 6 months of being notified of the decision seek a review of the decision by a person appointed for the purpose by the Agency.

(3) The appointed person must review the decision and consider and any representations made by the district council or the Agency and within 3 months report in writing with a recommended course of action to the Agency.

(4) The Agency must either—

- (a) confirm the decision together with the reasons; or
- (b) direct the district council to grant or restore, or itself restore recognition of the water in question.

(5) Where a district council is directed by the Agency under paragraph (4)(b) to grant or restore recognition, it must immediately comply with that direction.

Application to withdraw recognition

6. A person who exploits a spring from which water is extracted which is recognised as natural mineral water in accordance with regulation 4(2)(a) or 4(2)(d)(i), may apply to the district council or the Agency, as appropriate, to have that recognition withdrawn.

Notification of changes

7. A district council must immediately notify the Agency if—

- (a) it grants, restores or withdraws recognition of a natural mineral water; or
- (b) it is notified of any change to the trade description of a natural mineral water or to the name of a spring from which natural mineral water has been extracted.

Exploitation of natural mineral water springs

8.—(1) A person must not exploit a spring for the purpose of marketing the water from it as natural mineral water unless—

- (a) the water extracted from that spring is natural mineral water;
- (b) the Northern Ireland Environment Agency has authorised water to be abstracted from that spring; and

(c) the requirements of Schedule 4 are met.

(2) Where it is found during exploitation that natural mineral water is polluted and that the bottling of the water would contravene paragraphs 6, 7 or 8 of Schedule 4, a person must not exploit the spring from which the water is extracted until the cause of the pollution is eradicated and the bottling of the water would comply with those paragraphs.

Treatments and additions for natural mineral water

9.—(1) A person must not subject natural mineral water in its state at source to—

(a) any treatment other than—

(i) the separation of its unstable elements, such as iron and sulphur compounds, by filtration or decanting, whether or not preceded by oxygenation, in so far as the treatment does not alter the composition of the water as regards the essential constituents which give it its properties;

(ii) the total or partial elimination of free carbon dioxide by exclusively physical methods;

(iii) fluoride removal treatment which is authorised in accordance with Schedule 2; or

(iv) an ozone-enriched air oxidation technique which is authorised in accordance with Schedule 3;

(b) any addition other than the introduction or the re-introduction of carbon dioxide to produce effervescent natural mineral water; or

(c) any disinfection treatment by whatever means, or, subject to paragraph (1)(b), the addition of bacteriostatic elements or any other treatment likely to change the viable colony count of the natural mineral water.

(2) Paragraph (1) does not prevent the use of natural mineral water in the manufacture of soft drinks.

Bottling of natural mineral water

10.—(1) A person must not bottle any natural mineral water—

(a) unless the requirements of Schedule 4 are met;

(b) in a container other than a container which is fitted with closures designed to avoid any possibility of adulteration or contamination; and

(c) which, at the time of bottling, contains any substance listed in Part 1 of Schedule 5 at a level which exceeds the maximum limit specified in relation to that substance in that Schedule.

(2) The methods used for detection of the substances listed in Part 1 of Schedule 5 must conform to the performance characteristics for analysis specified in Part 2 of Schedule 5.

Labelling of natural mineral water

11.—(1) A person must not bottle natural mineral water and label it with—

(a) a trade description which includes the name of the locality, hamlet or other place, unless that trade description refers to a natural mineral water spring, the spring of which, is exploited at the place indicated by that description and is not misleading as regards the place of exploitation of the spring;

(b) a trade description which is different from the name of the spring or the place of its exploitation, unless the name of the spring or place of exploitation is also labelled on the

- bottle, using letters at least one and a half times the height and width of the largest of the letters used for that trade description;
- (c) any indication, designation, trade mark, brand name, picture or other sign, whether figurative or not, the use of which suggests a characteristic which the water does not possess, in particular as regards its origin, the date of authorisation to exploit the spring, the results of analyses or any similar references to guarantees of authenticity;
 - (d) any indication other than those specified in subparagraphs (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 the first column of the Table in Schedule 6, except where the natural mineral water meets the criterion so listed and corresponds to the indication;
 - (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 the physico-chemical analysis and pharmacological, physiological and clinical examination.
- (2) A person must not bottle natural mineral water and label it with a sales description other than—
- (a) “natural mineral water”; or
 - (b) in the case of an effervescent natural mineral water, one of the following, as appropriate—
 - (i) “naturally carbonated natural mineral water” to describe water whose content of carbon dioxide from the spring after decanting, if any, and bottling is the same as at source, taking into account, where appropriate, the reintroduction of a quantity of carbon dioxide from the same water table or deposit equivalent to that released in the course of those operations and subject to the usual technical tolerances;
 - (ii) “natural mineral water fortified with gas from the spring” to describe water whose content of carbon dioxide from the same water table or the same deposit after decanting, if any, and bottling is greater than that established at source; or
 - (iii) “carbonated natural mineral water” to describe water to which has been added carbon dioxide of an origin other than the water table or deposit from which the water comes.
- (3) A person must not bottle natural mineral water unless the bottle is labelled with—
- (a) a statement of analytical composition indicating the characteristic constituents of the water;
 - (b) the name of the place where the spring is exploited and the name of the spring;
 - (c) where the water 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;
 - (d) where the water has undergone an ozone-enriched air treatment, the words “water subjected to an authorised ozone-enriched air oxidation technique”, which must appear in proximity to the analytical composition of characteristic constituents; and
 - (e) where its fluoride concentration exceeds 1.5 mg/l—
 - (i) the words “contains more than 1.5 mg/l of fluoride; not suitable for regular consumption by infants and children under 7 years of age”, which must appear in immediate proximity to the trade name and in clearly visible characters; and

- (ii) the actual fluoride content in relation to the physico-chemical composition, which must be included within the statement referred to in paragraph (3)(a).

Advertising of natural mineral water

12.—(1) Where in accordance with regulation 11(1)(b) a bottle containing a natural mineral water is required to be labelled with the name of the spring or the place of its exploitation—

- (a) the same requirement also applies to any written advertisement for that natural mineral water; and
 - (b) in any other advertisement, at least equivalent prominence must be given to the place of exploitation or the name of the spring as is given to the trade description.
- (2) A person must not advertise natural mineral water in contravention of paragraph (1).

(3) A person must not advertise natural mineral water under any indication, designation, trade mark, brand name, picture or other sign, whether figurative or not, the use of which suggests a characteristic which the water does not possess, in particular as regards its origin, the date of authorisation to exploit it, the results of analyses or any similar references to guarantees of authenticity.

Sale of natural mineral water

13.—(1) A person must not sell water which is bottled and labelled “natural mineral water” unless that water is natural mineral water recognised in accordance with regulation 4(2).

- (2) A person must not sell bottled natural mineral water if it—
- (a) has been extracted from a spring which is exploited in contravention of regulation 8;
 - (b) has been subjected to any treatment or addition in contravention of regulation 9;
 - (c) is bottled in contravention of regulation 10;
 - (d) is labelled in contravention of regulation 11; or
 - (e) is advertised in contravention of regulation 12.

(3) A person must not sell bottled natural mineral water—

- (a) which contains—
 - (i) parasites or pathogenic micro-organisms;
 - (ii) *Escherichia coli* or other coliforms and faecal streptococci in any 250ml sample examined;
 - (iii) sporulated sulphite-reducing anaerobes in any 50ml sample examined; or
 - (iv) *Pseudomonas aeruginosa* in any 250 ml sample examined;
- (b) where the total colony count of the water at the source from which that water was taken does not comply with paragraph 7 of Schedule 4;
- (c) where the revivable total colony count of that water is in excess of that which would result from the normal increase in the bacterial count which it had at source; or
- (d) where that water contains any organoleptic defect.

(4) A person must not sell natural mineral water from the same spring under more than one trade description.

PART 3

Water intended to be sold as “spring water”

Exploitation of springs and bottling of water intended to be labelled and sold as “spring water”

14.—(1) A person must not bottle water intended to be labelled and sold as “spring water” unless—

- (a) the water has been extracted from a spring and is bottled at source;
- (b) the water is intended for human consumption in its natural state;
- (c) the requirements of Schedule 4 are met; and
- (d) the water meets the requirements of Schedule 7.

(2) Where it is found during exploitation that water from a spring is polluted and that bottling of the water would contravene paragraphs 6, 7 or 8 of Schedule 4, a person must not exploit the spring from which the water is extracted until the cause of the pollution is eradicated and the bottling of the water would comply with those paragraphs.

Treatments and additions for water intended to be labelled and sold as “spring water”

15.—(1) A person must not subject any water intended to be labelled and sold as “spring water” in its state at source to—

- (a) any treatment other than—
 - (i) the separation of its unstable elements, such as iron and sulphur compounds, by filtration or decanting, whether or not preceded by oxygenation, in so far as the treatment does not alter the composition of the water as regards the essential constituents which give it its properties;
 - (ii) the total or partial elimination of free carbon dioxide by exclusively physical methods;
 - (iii) a fluoride removal treatment which is authorised in accordance with Schedule 2; or
 - (iv) an ozone-enriched air treatment which is authorised in accordance with Schedule 3;
- (b) any addition other than the introduction or the re-introduction of carbon dioxide; or
- (c) any disinfection treatment by whatever means, or, subject to paragraph (1)(b) the addition of bacteriostatic elements, or any other treatment likely to change the viable colony count of the water.

Labelling of water as “spring water”

16.—(1) A person must not label a bottle of water as “spring water” unless the water contained in it—

- (a) meets the requirements of regulation 14(1); and
- (b) if treated, has undergone a treatment or addition permitted under regulation 15.

(2) If a bottle of water is labelled as “spring water” a person must not label that bottle with a trade description which—

- (a) includes the name of a locality, hamlet or other place, unless that trade description refers to water, the spring of which is exploited at the place indicated by that name and is not misleading as regards the place of exploitation of the spring; or

- (b) is different from the name of the spring or the place of its exploitation unless the name of the spring or the place of exploitation is also labelled on the bottle, using letters at least one and a half times the height and width of the largest of the letters used for that trade description.
- (3) A person must not label a bottle of water as “spring water” unless the bottle is also labelled with—
 - (a) the name of the place where the spring is exploited;
 - (b) the name of the spring; and
 - (c) where the water has undergone an ozone-enriched air treatment, the words “water subjected to an authorised ozone-enriched air oxidation technique”, which must appear in proximity to the particulars referred to in subparagraphs (a) and (b).

Advertising of water as “spring water”

- 17.—(1) Where in accordance with regulation 16(2)(b), a bottle of water is required to be labelled with the name of the spring or its place of exploitation in addition to a trade description—
- (a) the same requirement also applies to any written advertisement for that water; and
 - (b) in any other advertisement, at least equivalent prominence must be given to the place of exploitation or the name of the spring as is given to the trade description.
- (2) A person must not advertise a bottle of water as “spring water” in contravention of paragraph (1).

Sale of water as “spring water”

- 18.—(1) A person must not sell water which is bottled and labelled as “spring water” if it—
- (a) does not meet the requirements of regulation 14(1);
 - (b) has been subjected to a treatment or addition in contravention of regulation 15;
 - (c) is labelled in contravention of regulation 16; or
 - (d) is advertised in contravention of regulation 17.
- (2) A person must not sell water from the same spring labelled as “spring water” under more than one trade description.

PART 4

Bottled drinking water

Bottling of drinking water

19. A person must not bottle drinking water unless that water meets the requirements of Schedule 7.

Labelling of bottled drinking water

20. A person must not bottle drinking water and label it with—
- (a) a designation, proprietary name, trade mark, brand name, illustration or other sign, whether emblematic or not, the use of which is liable to cause confusion of the drinking water with a natural mineral water, or
 - (b) the description “mineral water”.

Advertising of bottled drinking water

- 21.** A person must not advertise bottled drinking water under—
- (a) a designation, proprietary name, trade mark, brand name, illustration or other sign, whether emblematic or not, the use of which is liable to cause confusion of the water with a natural mineral water, or
 - (b) the description “mineral water”.

Sale of bottled drinking water

- 22.** A person must not sell bottled drinking water which is—
- (a) bottled in contravention of regulation 19; or
 - (b) labelled in contravention of regulation 20; or
 - (c) advertised in contravention of regulation 21.

PART 5

Monitoring and sampling

CHAPTER 1

Natural mineral water

Monitoring of natural mineral water

- 23.** In the case of natural mineral water, each district council must carry out periodic checks to ensure that—
- (a) the composition, temperature and other essential characteristics of the water remain stable within the limits of natural fluctuation;
 - (b) without prejudice to subparagraph (a), the composition, temperature and other essential characteristics of the water are unaffected by any variations in the rate of flow;
 - (c) the viable colony count at source (before the water is subjected to any permitted treatment) is reasonably constant, taking into account the qualitative and quantitative composition of the water considered in the recognition of the water and that it continues to satisfy the requirements of Part 1 of Schedule 1; and
 - (d) the requirements of Schedule 4 are met in relation to the water.

CHAPTER 2

Water bottled and labelled as “spring water” and bottled drinking water

Monitoring of water bottled and labelled as “spring water” and bottled drinking water

- 24.—(1)** In the case of water bottled and labelled as “spring water” and bottled drinking water, each district council must carry out regular monitoring of the quality of the water to check that—
- (a) it satisfies the requirements of Directive 98/83 and in particular complies with the parametric values set in accordance with Schedule 7; and
 - (b) where disinfection forms part of the preparation or distribution of bottled drinking water, the disinfection treatment applied is efficient and any contamination from disinfection by-products is kept as low as possible without compromising the disinfection.

- (2) In order to comply with paragraph (1), each district council must carry out—
 - (a) monitoring in accordance with Schedule 8 to check whether the water complies with the relevant parametric values specified in Parts 2 and 3 of Schedule 7; and
 - (b) monitoring in accordance with Schedule 9 to check whether the water complies with the relevant parametric values specified in Part 4 of Schedule 7.
- (3) Each district council must carry out additional monitoring, on a case-by-case basis, in relation to any property, element, substance or organism other than a parameter specified in Schedule 7, if the district council has reason to suspect that it may be present in the water concerned in an amount or number which constitutes a potential danger to human health.

Samples and analysis

- 25.**—(1) For the purpose of monitoring water bottled and labelled as “spring water” and bottled drinking water, each district council must carry out—
- (a) sampling and analysis in accordance with Schedule 10 to check compliance with the parametric values specified in Parts 2 and 3 of Schedule 7; and
 - (b) sampling and analysis in accordance with Schedule 11 to check compliance with the parametric value for indicative dose specified in Part 4 of Schedule 7.
- (2) Each district council must take samples at the point at which the water is bottled.

Remedial action

- 26.**—(1) If a district council determines that water bottled and labelled as “spring water” or bottled drinking water does not comply with the parametric concentrations or values specified in Schedule 7, the district council must—
- (a) immediately investigate the non-compliance in order to identify the cause;
 - (b) assess whether the non-compliance poses a risk to human health which requires action;
 - (c) require the business operator to take remedial action as soon as possible to restore the quality of the water where that is necessary to protect human health;
 - (d) in respect of any parameter specified in Parts 2 and 3 of Schedule 7, notify the general public of the remedial action taken, unless the district council considers that non-compliance with the parametric value is trivial; and
 - (e) in respect of any parameter specified in Part 4 of Schedule 7, notify the general public of the risks and remedial action taken and advise the general public on any additional precautionary measures that may be needed for the protection of human health in respect of radioactive substances.
- (2) If water bottled and labelled as “spring water” or bottled drinking water constitutes a potential danger to human health, irrespective of whether it meets the relevant parametric values in Schedule 7, the district council must—
- (a) prohibit or restrict the supply of that water in its area or take such other action as is necessary to protect human health; and
 - (b) inform the general public promptly of that fact and provide advice where necessary.
- (3) In performing the function in paragraph (2), the district council must have regard to any risks to human health which would be caused by an interruption of the supply or a restriction in the use of water intended for human consumption.

CHAPTER 3

Treatments

Monitoring of certain treatments

27.—(1) Each district council must carry out periodic checks on any fluoride removal treatment which it has authorised to ensure that the requirements of paragraph 3 of Schedule 2 continue to be satisfied.

(2) Each district council must carry out periodic checks on any ozone-enriched air treatment which it has authorised to ensure that the requirements of paragraph 4 of Schedule 3 continue to be satisfied.

CHAPTER 4

Samples

General

28. The district council must ensure that each sample is representative of the quality of the water concerned consumed throughout the year in which the sample is taken.

Delivery

29.—(1) An authorised officer who has procured a sample under Article 29 of the Order and is required to give part of that sample to the owner in accordance with regulation 7(3)(c) of the Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 2013(8), may deliver that sample—

- (a) directly to the owner or the owner's agent; or
- (b) by registered post or recorded delivery service.

(2) If, after reasonable enquiry, the authorised officer is unable to ascertain the name and address of the owner, the authorised officer may retain the sample.

(3) In this regulation, “owner” has the same meaning as in the Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 2013.

Notification

30.—(1) An authorised officer who has procured a sample of water under Article 29 of the Order for the purpose of analysis by a public analyst must serve notice in accordance with paragraph (2) if it appears that the water was exploited or bottled by a person (other than the owner) having a name and an address in the United Kingdom displayed on the bottle.

(2) The authorised officer must, within three days of procuring the sample, send to that person a notice informing them—

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

(3) Paragraph (1) does not apply if the authorised officer decides not to have the sample analysed.

Analysis by the Government Chemist

31.—(1) Paragraphs (2) to (6) apply where a part of a sample procured under Article 29 of the Order has been submitted for analysis and another part of the sample has been retained in accordance with regulation 7(3)(e) of the Food Safety (Sampling and Qualifications) Regulations (Northern Ireland) 2013 and—

- (a) an improvement notice has been served on a person under Article 9(1) of the Order, as applied and modified by regulation 33, as read with Schedule 12, for a contravention of a provision of these Regulations in connection with that sample;
- (b) an appeal against that improvement notice has been made by that person to a court of summary jurisdiction; and
- (c) the authorised officer intends to adduce as evidence the result of the analysis of the sample procured under Article 29 of the Order.

(2) An authorised officer—

- (a) may of his own volition;
- (b) must, if requested by the court; or
- (c) must, subject to paragraph (6), if requested by the recipient of the improvement notice,

send the retained part of the sample to the Government Chemist for analysis.

(3) The Government Chemist must analyse, or direct a food analyst to analyse, the part of the sample sent under paragraph (2) and send to the authorised officer a Government Chemist's certificate of analysis.

(4) Any certificate sent by the Government Chemist must be signed by or on behalf of the Government Chemist, but the analysis may be carried out by a person under the direction of the person who signs the certificate.

(5) On receipt of the certificate the authorised officer must, as soon as is reasonably practicable, supply a copy of it to the court and to the recipient of the improvement notice.

(6) Where a request is made under paragraph (2)(c), the authorised officer may request payment of a fee specified in writing from the recipient of the improvement notice to defray some or all of the Government Chemist's charges for performing the functions under paragraph (3) and in the absence of agreement by the recipient of the improvement notice to pay the fee specified in the notice the authorised officer may refuse to comply with the request.

PART 6

Enforcement and miscellaneous provisions

Enforcement

32. Each district council must execute and enforce these Regulations in its district.

Application of the Order: Improvement Notices

33.—(1) Articles 9(1) and (2) of the Order (improvement notices) apply subject to paragraphs (2) and (3) and with the modification (in the case of Article 9(1)) specified in Part 1 of Schedule 12 for the purposes of enabling an improvement notice to be served on a person requiring that person to comply with any of the provisions specified in that modification and making the failure to comply with an improvement notice an offence.

(2) An authorised officer must not serve an improvement notice under Article 9(1) of the Order, as applied and modified by this regulation and Part 1 of Schedule 12 if—

- (a) the improvement notice would relate to water bottled and labelled before 28th November 2015; and
- (b) the matters constituting the alleged contravention would not have constituted an offence under the Regulations listed in regulation 36.

(3) If water bottled and labelled as “spring water” or bottled drinking water does not meet the requirements of paragraph 1(c) of Part 1 of Schedule 7 an authorised officer must not serve an improvement notice under Article 9(1) of the Order as applied and modified by this regulation, as read with Schedule 12 if—

- (a) the water was bottled or sold in an EEA State other than the United Kingdom; and
- (b) the water complied with the law in that EEA State when it was bottled or sold.

(4) Paragraph (1) is without prejudice to the application of the Order to these Regulations for purposes other than those specified in paragraph 1.

Application of other provisions of the Order

34.—(1) Article 33 of the Order (powers of entry) applies, with the modification (in the case of Article 33(1)) specified in Part 2 of Schedule 12 for the purposes of enabling an authorised officer—

- (a) to exercise a power of entry to ascertain whether there is, or has been, any contravention of a provision of Regulation 115/2010 specified in Schedule 12;
- (b) to exercise a power of entry to ascertain whether there is any evidence of any contravention of such a provision; and
- (c) when exercising a power of entry under Article 33, as applied by this paragraph, to exercise the powers in paragraphs (6) and (7) relating to records.

(2) Article 37 (appeals) and Article 38 (appeals against improvement notices) of the Order apply, with the modifications specified in Part 3 of Schedule 12 for the purpose of enabling a decision to serve a notice referred to in Regulation 33(1) to be appealed.

(3) The provisions of the Order specified in column 1 of the table in Part 4 of Schedule 12 apply, with the modifications specified in column 2 of that Part, for the purposes of these Regulations.

(4) Paragraphs (1) to (3) are without prejudice to the application of the Order to these Regulations for purposes other than those specified in those paragraphs.

Savings and transitional provisions

35.—(1) Any recognition of water as natural mineral water granted under the Natural Mineral Waters Regulations (Northern Ireland) 1985, the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 1999, or the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2007 and subsisting on the date that these Regulations come into operation must—

- (a) in the case of water extracted from the ground in Northern Ireland, be treated as if it were recognition granted by the district council under regulation 4(2)(a); and
- (b) in the case of water extracted from the ground in a country other than an EEA State, be treated as if it were recognition granted by the Agency under regulation 4(2)(d)(i).

(2) The revocation of the Regulations listed in regulation 36 does not affect the validity of any authorisation, recognition or notification made or given by the Agency or the district council under those Regulations, and any such authorisation, recognition or notification continues in effect.

(3) Where an application has been made under the Regulations listed in regulation 36 to a district council for recognition of water as natural mineral water, the application is to be treated as if it had been made under these Regulations.

Revocations

36. The following Regulations are revoked—

- (a) the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2007(9);
- (b) the Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2009(10);
- (c) the Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2010(11);
- (d) the Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) (No.2) Regulations (Northern Ireland) 2010(12); and
- (e) the Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2011(13)

Consequential Amendments

37. Schedule 13 (consequential amendments) has effect.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 5th November 2015.



Julie Thompson
A senior officer of the Department of Health,
Social Services and Public Safety

(9) [S.R. 2007 No. 420](#), amended by [S.R. 2009 No. 260](#), [S.R. 2010 Nos. 68 and 127](#) and [S.R. 2011 No. 53](#)
(10) [S.R. 2009 No. 260](#)
(11) [S.R. 2010 No. 68](#), amended by [S.R. 2010 No. 127](#)
(12) [S.R. 2010 No. 127](#)
(13) [S.R. 2011 No. 53](#)