
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 132

**The Natural Mineral Water, Spring Water and Bottled
Drinking Water Amendment (Scotland) Regulations 2004**

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Natural Mineral Water, Spring Water and Bottled Drinking Water Amendment (Scotland) Regulations 2004.

(2) Subject to paragraph (3) below these Regulations shall come into force on 24th April 2004.

(3) Regulations 5, 8(2), 11(a) and 12(2) shall come into force on 1st July 2004.

(4) These Regulations extend to Scotland only.

**Amendments to the Natural Mineral Water, Spring Water and Bottled Drinking Water
Regulations 1999**

2. The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations 1999(1) shall be amended in accordance with regulations 3 to 15.

3. In regulation 2(1)–

(a) after the definition of “the Agency” there shall be inserted–

““authorised ozone-enriched air oxidation technique” means–

(a) a treatment with ozone enriched air authorised and carried out in accordance with Schedule 5; or

(b) in the case of water brought into Scotland 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.”; and

(b) after the definition of “Directive 98/83” there shall be inserted–

““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).”.

4. In regulation 7(1) for sub-paragraph (a) there shall be substituted–

“(a) any treatment other than–

(i) an authorised ozone-enriched air oxidation technique;

(ii) a treatment referred to in sub-paragraph (a) or (d) of Article 4.1; or”.

5. After regulation 7 there shall be inserted–

(1) S.I.1999/1540, as amended by S.S.I. 2000/62 and 2003/139.

(2) O.J. No. L 126, 22.5.03, p.34.

“7A.—(1) No person shall bottle any natural mineral water which, at the time of bottling, contains any substance listed in Schedule 6 at a level which exceeds the maximum limit specified in relation to that substance in that Schedule.

(2) No person shall sell any natural mineral water bottled in contravention of paragraph (1).

(3) The methods used for detection of the substances listed in Schedule 6 shall conform to the performance characteristics for analysis in Schedule 7.

(4) For the purposes of paragraphs (1) and (2) above, where—

- (a) (i) the water concerned exceeds the maximum limits specified in Schedule 6;
- (ii) the water concerned was bottled in another EEA State;
- (iii) the EEA State concerned had not, at the time of bottling, implemented Article 2(1) of Directive 2003/40; and
- (iv) the water was bottled prior to 1st January 2006 and at the date of bottling otherwise complied with Directives 80/777 and 98/83 and the provisions of Directive 2003/40 which were in force in that EEA State; or
- (b) (i) the water concerned exceeds the maximum limits specified in Schedule 6 relating to nickel and fluoride;
- (ii) the water concerned was bottled in another EEA State;
- (iii) the EEA State concerned had not, at the time of bottling, implemented Article 2(1) of Directive 2003/40 insofar as it relates to maximum limits for nickel and fluoride; and
- (iv) the water was bottled prior to 1st January 2008 and at the date of bottling otherwise complied with Directives 80/777 and 98/83 and the provisions of Directive 2003/40 which were in force in that EEA State

that water shall be deemed not to exceed the maximum limits specified in Schedule 6.”.

6. After regulation 9 there shall be inserted—

“9A. No person shall bottle any natural mineral water, or sell natural mineral water which is bottled if it has been treated with ozone-enriched air unless that treatment is an authorised ozone-enriched air oxidation technique.”.

7. For regulation 10(3) there shall be substituted—

“(3) Natural mineral water shall be bottled in a bottle 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;
- (b) where it has undergone an authorised ozone-enriched air oxidation technique, the words “water subjected to an authorised ozone-enriched air oxidation technique”, which shall appear in proximity to the analytical composition of characteristic constituents;
- (c) 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 shall 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 shall be included within the mandatory information referred to in paragraph (4) below; and

(d) the mandatory information referred to in paragraph (4) below.”.

8.—(1) In regulation 10(5)(b), after “has undergone any of the treatments referred to in paragraph (3)(a)” there shall be inserted “or (b)”.

(2) In regulation 10(5)(c) “or” shall be omitted, and at the end of sub paragraph (d) there shall be inserted—

“or

(e) does not bear the labelling indications set out in sub paragraph (c) of paragraph (3) above where required by that sub-paragraph.”.

9. In regulation 11(1) at the end of sub-paragraph (d) “and” shall be omitted, and at the end of sub-paragraph (e) there shall be inserted—

“; and

(f) where the water has undergone an authorised ozone-enriched air oxidation technique, the bottle is marked or labelled with the words “water subjected to an authorised ozone-enriched air oxidation technique” which shall appear in proximity to the particulars in paragraph (3) of this regulation”.

10. After regulation 11 there shall be inserted—

“**11A.** No person shall cause any water to be bottled in a bottle marked or labelled with the description spring water, or sell any bottled water which is described as spring water, if it has been treated with ozone-enriched air unless that treatment is an authorised ozone enriched air oxidation technique.”.

11. In regulation 17—

(a) after “7,” there shall be inserted “7A(1) or (2),”;

(b) after “9,” there shall be inserted “9A,”;

(c) after “11(1), (2), (3) or (5),” there shall be inserted “11A,”.

12.—(1) In regulation 18, after paragraph (3) there shall be inserted—

“(4) In any proceedings for an offence for contravening regulations 9A, 10(3)(b), 11(1) (f) or 11A it shall be a defence for the person charged to prove that the water in respect of which the offence is alleged to have been committed was bottled and marked or labelled before 1st July 2004.”.

(2) In regulation 18, after the paragraph (4) inserted by paragraph (1) above there shall be inserted—

“(5) In any proceedings for an offence for contravening regulations 7A(1) or (2) or 10(5) (e) it shall be a defence for the person charged to prove that the water in respect of which the offence is alleged to have been committed was bottled and marked or labelled before 1st July 2004.”.

13.—(1) In paragraph 2(c) of Part I of Schedule I, for the words following “contains no substance” there shall be substituted—

“listed in Schedule 6 at a level which exceeds the maximum limit specified in relation to that substance in that Schedule.”.

(2) In paragraph 2(c) of Part II of Schedule I, for the words following “contains no substance” there shall be substituted–

“listed in Schedule 6 at a level which exceeds the maximum limit specified in relation to that substance in that Schedule.”.

14. In the second sub paragraph (c) of paragraph 1 of Part I of Schedule 3, for “(c)” there shall be substituted “(d)”.

15. After Schedule 4 there shall be inserted as Schedules 5, 6 and 7 the contents of the Schedule to these Regulations.

St Andrew’s House, Edinburgh
17th March 2004

TOM McCABE
Authorised to sign by the Scottish Ministers