
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 435

The Natural Mineral Water, Spring Water and
Bottled Drinking Water (Scotland) Regulations 2007

PART 2

Natural mineral water

Recognition as natural mineral water

- 4.—(1) Water is recognised as a natural mineral water where recognition is granted—
- (a) in the case of water extracted from the ground in Scotland, by the food authority, in accordance with Part 1 of Schedule 3;
 - (b) in the case of water extracted from the ground in another part of the United Kingdom by a responsible authority of that part of the United Kingdom pursuant to Directive 80/777;
 - (c) in the case of water extracted from the ground in an EEA State other than the United Kingdom by a responsible authority of that State pursuant to Directive 80/777; and
 - (d) in the case of water extracted from the ground in a country other than an EEA State—
 - (i) by the Agency, in accordance with Part 2 of Schedule 3; or
 - (ii) in accordance with an equivalent recognition by a responsible authority in—
 - (aa) another part of the United Kingdom; or
 - (bb) an EEA State other than the United Kingdom.

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

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

the food authority or, as the case may be, the Agency, may withdraw that recognition until those requirements are met.

(3) Where—

- (a) the food authority declines to grant or withdraws recognition of a water; or
- (b) 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 land on which that spring is situated, may apply to the Agency for a review of that decision.

(4) Where an application for review of a decision has been made under paragraph (3), the Agency shall make such inquiry into the matter as it considers appropriate, and, having considered the results of that inquiry and any relevant facts elicited by it, shall either—

- (a) confirm the decision; or
- (b) direct the food authority to grant or restore or itself restore, as appropriate, recognition of the water in question.

(5) A person who exploits a spring from which there is extracted water which is recognised as a natural mineral water in accordance with paragraph 1(a) or (d)(i) may apply to the Agency or food authority, as appropriate, to have that recognition withdrawn.

(6) Where a food authority—

- (a) grants, restores or withdraws recognition, it shall immediately inform the Agency of that fact;
- (b) 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, it shall immediately inform the Agency of that change;
- (c) is directed by the Agency under paragraph (4)(b) to grant or restore recognition, it shall immediately comply with that direction.

(7) Any recognition of water as a natural water granted under the Natural Mineral Waters Regulations 1985(1) or the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations 1999(2) and subsisting on the date that these Regulations come into force shall—

- (a) in the case of water extracted from the ground in Scotland, be treated as if it were recognition granted by the food authority under paragraph (1)(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 paragraph (1)(d)(i); and

(8) The publication in the Official Journal of the European Community of the name of any water as a natural mineral water recognised in the Community for the purposes of Directive 80/777 shall, save where recognition was granted in accordance with Schedule 3, be conclusive evidence that that water is recognised for the purposes of that Directive.

(9) Schedule 5 shall have effect for the purposes specified for it in Schedule 3.

Exploitation of natural mineral water springs

5.—(1) No person shall exploit any 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 food authority has given permission for that spring to be exploited; and
- (c) the requirements of Schedule 4 are met.

(2) Where it is found during exploitation that natural mineral water is polluted and that bottling of the water would contravene paragraph 6, 7 or 8 of Schedule 4, no person shall 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 these paragraphs.

Treatments and additions for natural mineral water

6.—(1) No person shall subject natural mineral water in its state at source to—

(1) S.I.1985/71, revoked by S.S.I. 1999/1540.

(2) S.I. 1999/1540, as amended by S.S.I. 2000/62; S.S.I. 2003/139 and S.S.I. 2004/132.

- (a) any treatment other than—
 - (i) an authorised ozone-enriched air oxidation technique;
 - (ii) 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 this treatment does not alter the composition of the water as regards the essential constituents which give it its properties; or
 - (iii) the total or partial elimination of free carbon dioxide by exclusively physical methods; or
- (b) any addition other than the introduction or the reintroduction of carbon dioxide to produce effervescent natural mineral water.

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

Bottling of natural mineral water

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

(3) No person shall bottle any natural mineral water which does not meet the requirements of Schedule 4.

(4) No person shall bottle any natural mineral water in any container other than a container which is fitted with closures designed to avoid any possibility of adulteration or contamination.

Marking, labelling and advertisement of natural mineral waters

8.—(1) No person shall cause a natural mineral water to be bottled in a bottle marked or labelled with any of the following—

- (a) a trade description which includes the name of a locality, hamlet or place, unless that trade description refers to a natural mineral water 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 place of exploitation or the name of the spring is also marked or 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 designation, proprietary name, trade mark, brand name, illustration or other sign, whether emblematic 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;
- (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 the table in Schedule 8, except where the natural mineral water meets the criterion, if any, corresponding to that 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;

(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; or

(h) a sales description other than–

(i) in the case of an effervescent natural mineral water, one of the following–

(aa) “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;

(bb) “natural mineral water fortified with gas from the spring” to describe water whose content of carbon dioxide from the water table or deposit after decanting, if any, and bottling is greater than that established at source;

(cc) “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;

(ii) in the case of a natural mineral water other than an effervescent natural mineral water, “natural mineral water”.

(2) No person shall cause natural mineral water to be bottled unless the bottle is marked or labelled with–

(a) a statement of analytical composition which statement shall indicate the characteristic constituents of the water;

(b) the name of the place where the spring is exploited and the name of the spring;

(c) in any case 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;

(d) in any case where it has undergone an authorised ozone-enriched air oxidation technique, “water subjected to an authorised ozone-enriched air oxidation technique”, which shall appear in proximity to the analytical composition of characteristic constituents; and

(e) in any case where its fluoride concentration exceeds 1.5 mg/l–

(i) “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 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 (2)(a).

(3) Where in accordance with paragraph (1)(b) a bottle containing a natural mineral water is required to be marked or labelled with the place of exploitation or the name of the spring–

(a) the same requirement shall also apply to any written advertisement for that natural mineral water; and

(b) in any other advertisement, at least equivalent importance shall be given to the place of exploitation or the name of the spring as is given to the trade description.

(4) No person shall advertise any natural mineral water under any designation, proprietary name, trade mark, brand name, illustration or other sign, whether emblematic 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.

(5) No person shall advertise any natural mineral water in contravention of paragraph (3).

Sale of natural mineral water

9.—(1) No person shall sell any water bottled in a bottle the marking or labelling of which uses the name “natural mineral water” in or as the name of the water unless that water is natural mineral water.

(2) No person shall sell any 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 250ml sample examined;

(b) where the total colony count of that 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 bacteria content which it had at source; and

(d) where that water contains any organoleptic defect.

(3) No person shall sell any bottled natural mineral water—

(a) which has been extracted from a spring which is exploited in contravention of regulation 5;

(b) has been subjected to any treatment or addition in contravention of regulation 6; or

(c) is marked or labelled in contravention of regulation 8.

(4) No person shall sell any natural mineral water from one and the same spring under more than one trade description.