

2010 No. 68

FOOD

The Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) Regulations (Northern Ireland) 2010

Made - - - - *8th March 2010*

Coming into operation - *9th April 2010*

The Department of Health, Social Services and Public Safety^(a) makes the following Regulations in exercise of the powers conferred on it by Articles 15(1), 16, 25(1)(a) and (3), 32 and 47(2) of, and paragraphs 1 and 4(b) of Schedule 1 to the Food Safety (Northern Ireland) Order 1991^(b).

In accordance with Article 47(3A) of that Order, it has had regard to relevant advice given by the Food Standards Agency.

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) there has been open and transparent public consultation during the preparation and evaluation of these 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) 2010 and come into operation on 9th April 2010.

Amendment of the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2007

2. The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2007^(d) are amended in accordance with regulations 3 to 9.

3. In regulation 2(1) (interpretation)—

- (a) immediately after the definition of “the Agency” there is inserted—
““authorised activated alumina treatment” means—

(a) Formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1) Article 3(6)
(b) S.I. 1991/762 (N.I.7) as amended by S.I. 1996/1663 (N.I.12), paragraphs 26 to 42 of Schedule 5 and Schedule 6 to the Food Standards Act 1999 c.28 and S.R. 2004 Nos. 482 and 505
(c) OJ No. L31, 1.2.2002, p.1, as last amended by Regulation (EC) No. 596/2009 of the European Parliament and of the Council adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny: Adaptation to the regulatory procedure with scrutiny- Part Four (OJ No. L188, 18.7.2009, p.14)
(d) S.R. 2007 No. 420, amended by S.R. 2009 No. 260

- (a) a treatment of natural mineral water and spring water with activated alumina in order to remove fluoride, that has been authorised in accordance with Schedule 1A; or
 - (b) in the case of natural mineral water or spring 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;” and
- (b) immediately after the definition of “prescribed concentration or value” there is inserted—
 ““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;”(a).

4. For regulation 6(1) (treatments and additions for natural mineral water) there is substituted—

“(1) A person shall not subject natural mineral water in its state at source to—

- (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 the treatment does not alter the composition of the water as regards the essential constituents which give it its properties;
 - (iii) the total or partial elimination of free carbon dioxide by exclusively physical methods; or
 - (iv) an authorised activated alumina treatment; or
- (b) any addition other than the introduction or the re-introduction of carbon dioxide to produce effervescent natural mineral water.”.

5. Immediately after regulation 10(2) (bottling of spring water and exploitation of spring water springs) there is inserted—

“(2A) A person shall not cause any water which has been treated with activated alumina for removal of fluoride to be bottled in a bottle marked or labelled “spring water”, unless that treatment is an authorised activated alumina treatment.”.

6. For regulation 16(3) (enforcement) there are substituted the following paragraphs—

“(3) Each district council shall, within its district, carry out periodic checks on any authorised activated alumina treatment in respect of which the authorisation was granted by it in accordance with Schedule 1A, to ensure that the requirements of that Schedule continue to be satisfied.

(4) Each district council shall, within its district, execute and enforce these Regulations.

(5) For the purposes of carrying out the function referred to in paragraph (4) in relation to bottled drinking water and spring water each district council shall—

- (a) subject to paragraph (6), carry out regular monitoring of the quality of any such water to check whether—
 - (i) it satisfies the requirements of Directive 98/83;
 - (ii) it contains a concentration or value for any parameter in excess of its prescribed concentration or value;
 - (iii) it contains a concentration or value for a property, element, substance or organism set out in Schedule 9 (as read with the Notes to that Schedule) in excess of the concentration or value specified in relation to the property, element, substance or organism concerned in that Schedule as measured by the unit of measurement so specified;

(a) OJ No. L37, 10.2.2010, p.13

- (iv) in the case where, in accordance with sub-paragraph (iii), a district council determines that the water concerned contains a concentration or value for *Clostridium perfringens* (including spores) in excess of the concentration or value specified in relation to it in Schedule 9 (as read with Note 2 to that Schedule) there is any potential danger to human health arising from the presence in the water of pathogenic micro-organisms; and
 - (v) in the case where disinfection forms part of the preparation or distribution of the water concerned, the disinfection treatment applied is efficient and any contamination from disinfection by-products is kept as low as is possible without compromising the disinfection.
- (b) in order to comply with sub-paragraph (a)—
 - (i) carry out regular check monitoring in relation to the parameters, properties, elements, substances and organisms set out in Schedule 10, as read with the Notes to that Schedule, and
 - (ii) carry out audit monitoring in relation to any parameter and the properties, elements, substances and organisms set out in Schedule 9, as read with the Notes to that Schedule;
 - (c) for the purposes of sub-paragraph (b), carry out sampling and analysis in accordance with the relevant minimum frequencies set out in Schedule 11; and
 - (d) carry out additional monitoring in relation to any property, element, substance or organism which is neither a parameter nor a property, element, substance or organism set out in Schedule 9 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.

(6) The checks and monitoring referred to in paragraph (5)(a), (b) and (d) shall be carried out using samples representative of the quality of the water concerned consumed throughout the year in which the samples are taken.”.

7. For regulation 20 (offences and penalties) there is substituted—

“Offences and penalties

20.—(1) A person is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale if that person —

- (a) contravenes regulation 5, 6(1), 7(1), (3) or (4), 8, 9, 10, 11, 12, 13, 14, 15 or 22(3);
- (b) fails to comply with any provision of Regulation 115/2010 specified in paragraph (2); or
- (c) carries out an authorised activated alumina treatment that has a disinfectant action.

(2) The provisions are—

- (a) Article 1.2 (requirement that authorised activated alumina treatments be performed in accordance with the technical requirements set out in the Annex);
- (b) the first sentence of Article 2 (requirement that the release of residues into natural mineral water or spring water as a result of any authorised activated alumina treatment be as low as technically feasible according to the best practices and not pose a risk to public health);
- (c) the second sentence of Article 2 (requirement that, to ensure compliance with the first sentence of Article 2, operators implement and monitor the critical processing steps set out in the Annex);
- (d) Article 3.1 (requirement that the application of an authorised activated alumina treatment be notified to the competent authorities at least three months prior to use); and

- (e) Article 4 as read with the second paragraph of Article 5 (requirement that, subject to a transitional provision, the label on natural mineral water or spring water subjected to any authorised activated alumina treatment include specified information in proximity to the statement of the analytical composition).”.

8. Immediately after Schedule 1 (conditions for treatment of natural mineral waters and spring waters with ozone-enriched air) there is inserted the Schedule set out in Schedule 1 to these Regulations.

9. Immediately after Schedule 8 (labelling indications for natural mineral water and criteria for use) there are added the Schedules set out in Schedule 2 to these Regulations.

Sealed with the official seal of the Department of Health, Social Services and Public Safety on 8th March 2010.



Andrew McCormick

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

SCHEDULE INSERTED IMMEDIATELY AFTER SCHEDULE 1 TO
THE NATURAL MINERAL WATER, SPRING WATER AND
BOTTLED DRINKING WATER REGULATIONS (NORTHERN
IRELAND) 2007

“SCHEDULE 1A Regulations 2(1) and 16(3)

CONDITIONS FOR TREATMENT OF NATURAL MINERAL
WATER AND SPRING WATER WITH ACTIVATED ALUMINA
TO REMOVE FLUORIDE

1. A person seeking to have authorised a treatment of natural mineral water and spring water with activated alumina in order to remove fluoride shall—
 - (a) apply in writing to the district council within whose district the water is extracted;
 - (b) permit an authorised officer of that district council to examine the proposed method of treatment and place of treatment and take samples for analysis in accordance with regulation 17; and
 - (c) provide such information in support of the application as is requested by the district council.
2. The district council shall assess the application and any information in its possession and shall authorise the treatment if it is satisfied that—
 - (a) Articles 1 to 3 of Regulation 115/2010 are complied with in relation to the treatment; and
 - (b) the treatment does not have a disinfectant action.
3. Where the district council decides to authorise a treatment pursuant to paragraph 2, it shall inform the applicant in writing and state the date from which the authorisation for commercial use of the treatment has effect.
4. Where the district council refuses to authorise a treatment pursuant to paragraph 2, it shall inform the applicant in writing, stating its reasons.
5. Where a treatment has been authorised pursuant to paragraph 2, the person carrying out the treatment must, for the purpose of enabling the district council to assess whether the conditions in paragraph 2 continue to be satisfied—
 - (a) permit an authorised officer of the district council to examine the method of treatment and place of treatment and take samples for analysis in accordance with regulation 17; and
 - (b) provide such information related to the treatment as is requested by the district council.
6. If the district council is satisfied that the conditions specified in paragraph 2 are no longer fulfilled, it may withdraw authorisation of a treatment by giving the person carrying out the treatment a written notice stating the grounds for withdrawal.

7. Where the district council has informed an applicant under paragraph 4 of its refusal to authorise a treatment under paragraph 2 or withdraws authorisation of a treatment under paragraph 6, the person who wishes to carry out the treatment may apply to the Agency for a review of that decision.

8. Upon receiving the application for review, the Agency shall —

- (a) make such enquiry into the matter as may seem to the Agency to be appropriate; and
- (b) having considered the results of that enquiry and any relevant facts elicited by it, either confirm the decision or direct the district council to grant or restore, as appropriate, authorisation of the treatment in respect of which the application was made.

9. In the case of such a direction, the district council shall comply with the direction.”

SCHEDULE 2

Regulation 9

SCHEDULES INSERTED IMMEDIATELY AFTER SCHEDULE 8 TO THE NATURAL MINERAL WATER, SPRING WATER AND BOTTLED DRINKING WATER REGULATIONS (NORTHERN IRELAND) 2007

“SCHEDULE 9^{Regulation 16(5)(a)(iii), (b)(ii) and (d)}

PROPERTIES, ELEMENTS, SUBSTANCES AND ORGANISMS,
NOT BEING PARAMETERS, WHOSE CONCENTRATION OR
VALUE IN BOTTLED DRINKING WATER AND SPRING
WATER MUST BE DETERMINED BY AUDIT MONITORING

<i>Property, element, substance or organism</i>	<i>Concentration or value</i>	<i>Unit</i>	<i>Notes</i>
Ammonium	200	µg/l	
Chloride	250	mg/l	Note 1
<i>Clostridium perfringens</i> (including spores)	0	number/ 100 ml	Note 2
Conductivity	2500	µS cm ⁻¹ at 20°C	Note 1
Iron	200	µg/l	
Oxidisability	5,0	mg/ l O ₂	Note 3
Coliform bacteria	0	Number/250 ml	
Total organic carbon (TOC)	No abnormal change		Note 4

Note 1: The water should not be aggressive.

Note 2: This parameter need not be measured unless the water originates from or is influenced by surface water.

Note 3: This parameter need not be measured if the parameter TOC is analysed.

Note 4: This parameter need not be applied for supplies less than 10000 m³ per day.

PARAMETERS, PROPERTIES, ELEMENTS, SUBSTANCES
AND ORGANISMS IN RELATION TO WHICH CHECK
MONITORING MUST BE CARRIED OUT

Aluminium (Note 1)

Ammonium

Colour

Conductivity

Clostridium perfringens (including spores) (Note 2)

Escherichia coli (*E. Coli*)

Hydrogen ion concentration

Iron (Note 1)

Nitrite (Note 3)

Odour

Pseudomonas aeruginosa

Taste

Colony count 22°C and 37°C

Coliform bacteria

Turbidity

Note 1: Necessary only when used as flocculant

Note 2: Necessary only if the water originates from or is influenced by surface water

Note 3: Necessary only when chloramination is used as a disinfectant

MINIMUM FREQUENCIES FOR SAMPLING AND ANALYSIS
OF SPRING WATER AND BOTTLED DRINKING WATER

**Minimum frequency of sampling and analysis for water put into bottles or
containers intended for sale**

Volume of water produced for offering for sale in bottles or containers each day (1) m ³	Check monitoring number of samples per year	Audit monitoring number of samples per year
≤ 10	1	1
> 10 ≤ 60	12	1
> 60	1 for each 5 m ³ and part thereof of the total volume	1 for each 100 m ³ and part thereof of the total volume

(¹) The volumes are calculated as averages taken over a calendar year.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2007 (S.R. 2007 No. 420, as already amended).

These Regulations—

- (a) provide for the execution and enforcement of 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 (OJ No. L 37, 10.2.2010, p.13); and
- (b) implement, Article 7.1 to 3 and 6 of Council Directive 98/83/EC relating to the quality of water intended for human consumption (OJ No. L330, 3.11.98, p.32).

These Regulations amend the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2007 by—

- (a) inserting definitions of “authorised activated alumina treatment” and “Regulation 115/2010” into regulation 2(1) (interpretation) (*regulation 3*);
- (b) substituting a revised version of regulation 6(1) (treatment and additions for natural mineral water) in order to add authorised activated alumina treatments to the list of treatments to which natural mineral water in its state at source may lawfully be subjected (*regulation 4*);
- (c) adding a paragraph to regulation 10 (bottling of spring water and exploitation of spring water springs) prohibiting the bottling of water which has been treated with activated alumina for removal of fluoride in a bottle marked or labelled “spring water” unless the treatment is an authorised activated alumina treatment (*regulation 5*);
- (d) substituting for regulation 16(3) (enforcement) new paragraphs (3) to (6) which—
 - (i) require district councils to carry out periodic checks on authorised activated alumina treatments which they have authorised in accordance with new Schedule 1A, to ensure that the requirements of that Schedule continue to be satisfied,
 - (ii) require district councils to carry out regular monitoring of the quality of bottled drinking water and spring water for specified matters,
 - (iii) in order to comply with that requirement, require district councils to—
 - (aa) carry out regular check monitoring in relation to the parameters, properties, elements, substances and organisms set out in new Schedule 10, and
 - (bb) carry out audit monitoring in relation to any parameter and the properties, elements, substances and organisms set out in new Schedule 9.
 - (iv) for the purposes of that requirement, require district councils to carry out sampling and analysis in accordance with the relevant minimum frequencies set out in new Schedule 11,
 - (v) require district councils to carry out additional monitoring in relation to any property, element, substance or organism which is neither a parameter nor a property, element, substance or organism set out in new Schedule 9 if they have 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, and
 - (vi) require the checks and monitoring referred to in divisions (ii) to (v) of this subparagraph to be carried out using samples representative of the quality of the water concerned consumed throughout the year in which the samples are taken (*regulation 6*);
- (e) substituting a revised regulation 20 (offences and penalties) in order to make it an offence to fail to comply with specified provisions of Commission Regulation (EU) No. 115/2010 or to carry out an authorised activated alumina treatment that has a disinfectant action (*regulation 7*); and
- (f) insert new Schedules 1A, 9, 10 and 11 (*regulations 8 and 9*).

© Crown Copyright 2010

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print the Acts of the Northern Ireland Assembly.

2010 No. 68

FOOD

The Natural Mineral Water, Spring Water and Bottled Drinking
Water (Amendment) Regulations (Northern Ireland) 2010

£5.50