
EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations, which apply to Wales only, implement Commission Directive 2003/40 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. They amend the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations 1999.

2. The Regulations —

- (a) prescribe a definition of and conditions for use of authorised ozone-enriched air oxidation technique (*regulation 3 and the Schedule*);
- (b) allow, for the first time, treatment of natural mineral waters with an authorised ozone-enriched air oxidation technique (*regulation 4*);
- (c) set maximum limits for certain naturally-occurring substances in natural mineral water and standards for methods used to detect these substances (*regulation 5 and the Schedule*);
- (d) provide for a defence for products produced by other EEA States which do not yet conform to the limits, where the EEA State concerned has not yet implemented those limits and the deadline for implementation has not yet passed (*regulation 5*);
- (e) prohibit the treatment of natural mineral water with unauthorised ozone-enriched air oxidation techniques (*regulation 6*);
- (f) provide for an appropriate form of labelling indication on natural mineral water where it has undergone an authorised treatment with ozone-enriched air or where it contains a high level of fluoride (*regulation 7*);
- (g) prohibit the sale of natural mineral water without the applicable labelling indications (which will become an offence by virtue of the operation of regulation 17 of the principal Regulations) (*regulation 8*);
- (h) provide for an appropriate labelling indication where a spring water has undergone an authorised ozone-enriched air oxidation technique and prohibit its sale without that labelling indication (which will become an offence by virtue of the operation of regulation 11(5) of the principal Regulations, the penalty for which is specified by regulation 17 of the principal Regulations as being a fine not exceeding level 5 on the standard scale) (*regulation 9*);
- (i) prohibit bottling or sale of water described as spring water if treated with an unauthorised ozone-enriched air oxidation treatment (*regulation 10*);
- (j) create offences of bottling or selling natural mineral water containing a specified substance in excess of the maximum limit; bottling or selling natural mineral water or spring water treated with ozone-enriched air unless an authorised technique was used (subject to penalties provided for in the principal Regulations) (*regulation 11*);
- (k) introduce a transitional defence to allow the use of stock products bottled and labelled before 1st July 2004, where the product would otherwise be legal under existing law (*regulation 12*);

Status: This is the original version (as it was originally made).

- (l) provide that the maximum limits in the new Schedule 6 to be added to the principal Regulations shall be the relevant limits for recognition of a natural mineral water, replacing the limits in Schedule 3 to the principal Regulations for this purpose (*regulation 13*);
- (m) insert a new Schedule 5 into the principal Regulations, which sets down —
 - (i) conditions to be satisfied before an ozone-enriched air oxidation technique can be authorised;
 - (ii) a process for obtaining a written authorisation for a treatment from a county council or county borough council;
 - (iii) a requirement to allow officers of the relevant authority to conduct periodic examinations of the process in order to check that the treatment continues to be necessary and is effective and safe;
 - (iv) the ability of an authority to withdraw authorisation by means of a written notice if conditions are not observed;
 - (v) a mechanism for applying to the Food Standards Agency for review of an authority's decision not to grant or to withdraw authorisation (*regulation 14, Schedule*);
- (n) insert a new Schedule 6 into the principal Regulations, setting down maximum limits for certain naturally-occurring substances in natural mineral water (*regulation 14, Schedule*);
- (o) insert a new Schedule 7 containing standards for scientific methods used to detect the substances specified in Schedule 6 (*regulation 14, Schedule*);
- (p) make consequential amendments to the Food Safety (Sampling and Qualifications) Regulations 1990 and the Food Safety (General Food Hygiene) Regulations 1995 to bring up to date references to the principal Regulations (*regulation 15*).

3. A full Regulatory Appraisal has been prepared and placed in the Library of the National Assembly for Wales, together with a Transposition Note setting out how the main elements of the European legislation referred to above are transposed in these Regulations. Copies may be obtained from the Food Standards Agency, 11th Floor, Southgate House, Cardiff, CF10 1EW.