STATUTORY INSTRUMENTS

2007 No. 2785

FOOD, ENGLAND

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

Made - - - -	*19th September 2007*
Laid before Parliament	*27th September 2007*
Coming into force - -	*31st October 2007*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 16(1), 17(1), 26(1)(a) and (3), 31 and 48(1) of and paragraphs 1 and 4(b) of Schedule 1 to the Food Safety Act 1990(**1**) and now vested in him(**2**).

In accordance with section 48(4A) of that Act, he has taken into account 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(**3**) there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

(**1**) 1990 c. 16; section 1(1) and (2) (definition of "food") was substituted by S.I. 2004/2990. Sections 17 and 48 were amended by paragraphs 12 and 21 respectively of Schedule 5 to the Food Standards Act 1999 (1999 c.28), "the 1999 Act". Section 48 was also amended by S.I. 2004/2990. Section 26(3) was amended by Schedule 6 to the 1999 Act. Section 53(2) was amended by paragraph 19 of Schedule 16 to the Deregulation and Contracting out Act 1994 (1994 c. 40), Schedule 6 to the 1999 Act and S.I. 2004/2990.

(**2**) Functions formerly exercisable by "the Ministers" (being, in relation to England and Wales and acting jointly, the Minister of Agriculture, Fisheries and Food and the Secretaries of State respectively concerned with health in England and food and health in Wales and, in relation to Scotland, the Secretary of State) are now exercisable in relation to England by the Secretary of State pursuant to paragraph 8 of Schedule 5 to the 1999 Act. Functions of "the Ministers" so far as exercisable in relation to Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) as read with section 40(3) of the 1999 Act, and thereafter transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c.32). Those functions so far as exercisable in relation to Scotland were transferred to the Scottish Ministers by section 53 of the Scotland Act 1998 (1998 c.46) as read with section 40(2) of the 1999 Act. Regulation 13(4) of S.I. 2000/656 expressly authorises the Secretary of State to amend or revoke existing Regulations made or having effect as if made by the Minister of Agriculture, Fisheries and Food (whether with others or not) under the Food Safety Act 1990.

(**3**) OJ No. L31, 1.2.2002, p.1, as last amended by Commission Regulation (EC) No. 575/2006 amending Regulation (EC) No. 178/2002 of the European Parliament and of the Council as regards the number and names of the permanent Scientific Panels of the European Food Safety Authority (OJ No. L100, 8.4.2006, p.3).

PART 1

Introductory

Title, application and commencement

1. These Regulations may be cited as the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007, apply in relation to England only and come into force on 31st October 2007.

Interpretation

2.—(1) In these Regulations —

"the Act" means the Food Safety Act 1990;

"advertisement" and "advertise" shall have the same meanings as those given to them in regulation 2(1) of the Food Labelling Regulations 1996(**4**);

"the Agency" means the Food Standards Agency;

"authorised ozone-enriched air oxidation technique" means—

(a) a treatment with ozone-enriched air authorised and carried out in accordance with Schedule 1; or

(b) in the case of water brought into England 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;

"bottle", the noun, 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, and "bottle", the verb, and cognate expressions, shall be construed accordingly;

"Directive 80/777" means Council Directive 80/777/EEC on the approximation of the laws of the Member States relating to the exploitation and marketing of natural mineral waters(**5**);

"Directive 98/83" means Council Directive 98/83/EC relating to the quality of water intended for human consumption(**6**);

"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(**7**);

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

(a) natural mineral water; or

(b) water bottled in a bottle marked or labelled "spring water" in accordance with regulation 11;

"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;

"natural mineral water" means water which—

(**4**) S.I. 1996/1499, to which there are amendments not relevant to these Regulations.
(**5**) OJ No. L229, 30.8.80, p.1, as last amended by Regulation (EC) No. 1882/2003 of the European Parliament and of the Council adapting to Council Decision 1999/468/EC the provisions relating to Committees which assist the Commission in the exercise of its implementing powers laid down in instruments subject to the procedure referred to in Article 251 of the EC Treaty (OJ No. L284, 31.10.2003, p.1).
(**6**) OJ No. L330, 5.12.98, p.32.
(**7**) OJ No. L126, 22.5.2003, p.34.

(a) is microbiologically wholesome;

(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 ordinary drinking water on account of the following characteristics having been preserved intact because of the underground origin of the water, which origin shall have 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,

(ii) its original state; and

(d) is for the time being recognised pursuant to and in accordance with regulation 4;

"parameter" means a property, element, organism or substance listed in the second column of any Table in Part 2 of Schedule 2;

"prescribed concentration or value", in relation to any parameter, means the concentration or value specified in relation to that parameter in any Table in Part 2 of Schedule 2 as measured by reference to the unit of measurement so specified;

"relevant authority" means the council of a district or London Borough; and

"sell" includes possess for sale and offer, expose or advertise for sale, and "sale" shall be construed accordingly.

(2) Other expressions used both in these Regulations and in Directive 80/777 or Directive 98/83 have the same meaning in these Regulations as they bear in the Directive concerned.

(3) Any reference in these Regulations to a numbered Article or Annex is, save where the contrary intention appears, a reference to the Article or Annex so numbered in Directive 80/777.

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

Exemptions

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

(a) has a product licence issued under the provisions of the Medicines Act 1968(**8**), or a marketing authorisation within the meaning of the Medicines for Human Use (Marketing Authorisations etc.) Regulations 1994(**9**), or a marketing authorisation within the meaning of the Veterinary Medicines Regulations 2005(**10**);

(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.

(**8**) 1968 c. 67.
(**9**) S.I. 1994/3144; to which there are amendments not relevant to these Regulations.
(**10**) S.I. 2005/2745.

PART 2

Natural mineral water

Recognition as natural mineral water

4.—(1) Water is recognised as natural mineral water where —

(a) in the case of water extracted from the ground in England, recognition is granted by the relevant 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, it is recognised there pursuant to Directive 80/777 by a responsible authority of that part of the United Kingdom;

(c) in the case of water extracted from the ground in an EEA State other than the United Kingdom, it is recognised there pursuant to Directive 80/777 by a responsible authority of that EEA State; and

(d) in the case of water extracted from the ground in a country other than an EEA State —

(i) it is recognised by the Agency, in accordance with Part 2 of Schedule 3, or

(ii) it has an equivalent recognition, given by a responsible authority of —

(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) by analysis in accordance with Part 3 of Schedule 3, that the requirements of paragraph 3 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) of Part 1 or, as the case may be, paragraph 2(c) of Part 2 of Schedule 3,

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

(3) Where—

(a) the relevant 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 the land on which that spring is situated, may apply to the Agency for a review of that decision.

(4) Upon an application for review of a decision being made under paragraph (3), the Agency shall make such inquiry into the matter as may seem to it to be 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 relevant 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 relevant authority or the Agency, as appropriate, to have that recognition withdrawn.

(6) Where the relevant 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; or

(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 mineral water granted under the Natural Mineral Waters Regulations 1985(**11**) or the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations 1999(**12**) and subsisting on the date that these Regulations come into force shall—

(a) in the case of water extracted from the ground in England, be treated as if it were recognition granted by the relevant 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 Union 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 relevant 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 those paragraphs.

Treatments and additions for natural mineral water

6.—(1) No person shall 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, 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.

(**11**) S.I. 1985/71, revoked by S.I. 1999/1540.
(**12**) S.I. 1999/1540, amended by S.I. 2000/656, S.I. 2003/666 and S.I. 2004/656.

(2) Paragraph (1) shall not prevent the use 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 advertising of natural mineral water

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

(a) a trade description which includes the name of a locality, hamlet or other 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 so listed and 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, as appropriate—

(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, or

(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; and

(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 in a bottle unless the bottle is marked or 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) 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, the words "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) 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 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 statement 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 prominence 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 250 ml sample examined,

(iii) Sporulated sulphite-reducing anaerobes in any 50 ml 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 bacteria content which it had at source; or

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

(c) which 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.

PART 3

Spring water

Bottling of spring water and exploitation of spring water springs

10.—(1) No person shall cause any water to be bottled in a bottle marked or labelled with the description "spring water" unless that water —

(a) has been extracted from a spring; and

(b) meets the requirements of Schedules 2 and 4.

(2) No person shall cause any water which has been treated with ozone-enriched air to be bottled in a bottle marked or labelled spring water, unless that treatment is an authorised ozone-enriched air oxidation technique.

(3) Where it is found during exploitation that spring 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 those paragraphs.

Marking, labelling and advertising of spring water

11.—(1) No person shall cause any bottle to be marked or labelled with the description "spring water" unless the water contained in it—

(a) is bottled as specified in regulation 10; and

(b) is intended for consumption in its natural state.

(2) No person shall cause any bottle containing water and marked or labelled with the description "spring water" to be marked or labelled with—

(a) a trade description including 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 description and is not misleading as regards the place of exploitation of the spring; or

(b) a trade description that 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.

(3) No person shall cause any water to be bottled in a bottle marked or labelled with the description "spring water" unless the bottle is also marked or labelled with—

(a) the name of the place where the spring in question is exploited; and

(b) the name of the spring; and

(c) in any case where the water has undergone an authorised ozone-enriched air oxidation technique, the words "water subjected to an authorised ozone–enriched air oxidation technique", which words shall appear in proximity to the particulars referred to in sub-paragraphs (a) and (b).

(4) Where in accordance with paragraph (2)(b) a bottle containing spring 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 spring 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.

(5) No person shall advertise any spring water in contravention of paragraph (4).

Sale of spring water

12.—(1) No person shall sell any water bottled in a bottle marked or labelled with the description "spring water"—

(a) which has not been bottled in accordance with regulation 10; or

(b) which is not marked or labelled in accordance with regulation 11.

(2) No person shall sell water from one and the same spring, bottled in a bottle marked or labelled with the description "spring water", under more than one trade description.

PART 4

Bottled drinking water

Bottling of drinking water

13. No person shall cause any drinking water to be bottled unless that water meets the requirements of Schedule 2.

Marking, labelling and advertising of bottled drinking water

14. No person shall—

(a) cause any drinking water which does not satisfy the provisions of Section I of Annex I to be bottled in a bottle marked or labelled with—

(i) any 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

(ii) the description "mineral water"; or

(b) cause any bottled drinking water which does not satisfy the provisions of Section I of Annex I to be advertised under—

(i) any 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

(ii) the description "mineral water".

Sale of bottled drinking water

15. No person shall sell any bottled drinking water which—

(a) has not been bottled in accordance with regulation 13; or

(b) has not been marked or labelled in accordance with regulation 14.

PART 5

Miscellaneous and supplemental

Enforcement

16.—(1) Each relevant authority shall, within its area—

(a) carry out periodic checks on any water which has been recognised as a natural mineral water to ensure that—

(i) the composition, temperature and other essential characteristics of the water remain stable within the limits of natural fluctuation,

(ii) without prejudice to head (i) above, the composition, temperature and other essential characteristics of the water are unaffected by any variations in the rate of flow,

(iii) the viable colony count at source (before the water is subjected to any treatment) is reasonably constant, taking into account the qualitative and quantitative composition of the water considered in the recognition of the water and whether it continues to satisfy the requirements of Part 1 of Schedule 3, and

(iv) the requirements of Schedule 4 are met in relation to the water.

(2) Each relevant authority shall, within its area, carry out periodic checks on any ozone-enriched air oxidation technique authorised by it pursuant to Schedule 1, to ensure that the requirements of that Schedule continue to be satisfied.

(3) Each food authority shall, within its area—

(a) enforce and execute these Regulations; and

(b) for the purposes of carrying out that function, take the steps required of member States and competent authorities by Article 7.1, 7.2, 7.3, and 7.6 of Directive 98/83 in relation to products to which that Directive and these Regulations apply.

Arrangements for samples taken for analysis

17.—(1) An authorised officer of a food authority who has procured a sample under section 29 of the Act and who considers that it should be analysed for the purposes of these Regulations shall deal with the sample in accordance with this regulation and for the purposes of this regulation "sample" includes one or more bottles of any water.

(2) The authorised officer shall forthwith divide the sample into three parts, each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall —

(a) with respect to one part of the sample comply with paragraphs (3) to (6); and

(b) deal with the remaining parts in accordance with paragraph (7).

(3) If the sample was purchased by the authorised officer, he shall give the part of the sample to the person from whom it was purchased.

(4) If the sample is a sample of water brought into England and was taken by the authorised officer before delivery to a person who intends to sell that water in England, the officer shall give the part of the sample to that person.

(5) If neither paragraph (3) nor paragraph (4) applies, the authorised officer shall give the part of the sample to the person appearing to be the owner of the water from which the sample was taken.

(6) In every case to which paragraph (3), (4) or (5) applies, the authorised officer shall inform the person to whom the part of the sample is given that the sample was purchased or taken, as appropriate, for the purpose of analysis by a public analyst.

(7) The authorised officer shall, unless he decides not to have an analysis made, submit one of the remaining parts of the sample for analysis in accordance with section 30 of the Act and retain the other.

(8) Any part of a sample which under this regulation is to be given to any person may be given by delivering it to him or to his agent or by sending it to him by registered post or the recorded delivery service; but where after reasonable enquiry the authorised officer is unable to ascertain the name and address of the person to whom the part of the sample is to be given he may, in lieu of giving the part to that person, retain it.

(9) If it appears to the authorised officer that any water, of which he has procured a sample for the purpose of analysis by a public analyst, was exploited or bottled by a person (not being a person to whom one part of the sample is required to be given by this regulation) having his name and an address in the United Kingdom displayed on the bottle or any other container, the officer shall, unless he decides not to have an analysis made, within three days of procuring the sample send to that person a notice informing him —

(a) that the sample has been procured by the officer; and

(b) where the sample was taken or, as the case may be, from whom it was purchased.

(10) Where a sample taken or purchased by an authorised officer has been analysed by a public analyst, any person to whom a part of the sample was given under this regulation shall be entitled, upon request to the food authority, to be supplied with a copy of the certificate of analysis by that authority.

Secondary analysis by the Government Chemist

18.—(1) Where a part of a sample has been retained under regulation 17(7) and—

(a) proceedings are intended to be or have been commenced against a person for an offence under these Regulations; and

(b) the prosecution intends to adduce as evidence the result of the analysis mentioned in regulation 17,

paragraphs (2) to (7) apply.

(2) The authorised officer—

(a) may of his own volition;

(b) shall if requested by the prosecutor (if a person other than the authorised officer);

(c) shall if the court so orders; or

(d) shall (subject to paragraph (6)) if requested by the defendant,

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

(3) The Government Chemist shall analyse the part sent to him under paragraph (2) and send to the authorised officer a certificate of analysis.

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

(5) The authorised officer shall immediately on receipt supply the prosecutor (if a person other than the authorised officer) and the defendant with a copy of the Government Chemist's certificate of analysis.

(6) Where a request is made under paragraph (2)(d) the authorised officer may give notice in writing to the defendant requesting payment of a fee specified in the 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 defendant to pay the fee specified in the notice the authorised officer may refuse to comply with the request.

(7) In this regulation "defendant" includes a prospective defendant.

Methods of analysis

19. Methods of analysis which accord with Article 7.5 of Directive 98/83 shall be used for the purposes of determining whether or not water satisfies the provisions of Schedule 2.

Offences and penalties

20. A person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale if he contravenes regulation 5, 6(1), 7(1), (3), or (4), 8, 9, 10, 11, 12, 13, 14, 15 or 22(3).

Defences

21.—(1) In any proceedings for an offence under these Regulations it shall be a defence for the accused to show that —

(a) the water was bottled and marked or labelled before these Regulations came into force; and

(b) under the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations 1999, no offence would have been committed by him.

(2) In any proceedings for an offence under these Regulations where it is alleged that water does not meet the requirements in paragraph 1(c) of Part 1 of Schedule 2, it shall be a defence for the person accused to show that—

(a) the water in question was bottled or sold in an EEA State other than the UK; and

(b) the water complied with the law in that EEA State when it was bottled or sold.

Application of other provisions

22.—(1) The following provisions of the Act shall apply for the purposes of these Regulations and, unless the context otherwise requires, any reference in those provisions to the Act or Part thereof shall be construed for the purposes of these Regulations as a reference to these Regulations —

(a) section 2 (extended meaning of "sale" etc.);

(b) section 3 (presumptions that food intended for human consumption);

(c) section 20 (offences due to fault of another person);

(d) section 21 (defence of due diligence) as it applies for the purposes of section 14 or 15;

(e) section 22 (defence of publication in the course of business);

(f) section 30(8) (which relates to documentary evidence);

(g) section 33(1) (obstruction etc. of officers);

(h) section 33(2), with the modification that the reference to "any such requirement as is mentioned in subsection 1(b) above" shall be deemed to be a reference to any such requirement as is mentioned in that subsection as applied by sub-paragraph (g)

(i) section 35(1) (punishment of offences) in so far as it relates to offences under section 33(1) as applied by sub-paragraph (g);

(j) section 35(2) and (3) insofar as they relate to offences under section 33(2) as applied by sub-paragraph (h)

(k) section 36 (offences by bodies corporate); and

(l) section 44 (protection of officers acting in good faith).

(2) Regulation 38 (intelligibility) of the Food Labelling Regulations 1996 shall apply to any name, description, indication, information or other wording with which water is required or permitted by these Regulations to be marked or labelled, as it applies to particulars required to be labelled under the Food Labelling Regulations 1996.

(3) No person shall sell any water to which these Regulations apply if the bottle in which it is bottled is not marked or labelled in accordance with regulation 38 of the Food Labelling Regulations 1996 as applied by paragraph (2).

Revocation

23. The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations 1999 are revoked in so far as they apply to England.

Signed by authority of the Secretary of State for Health.

Dawn Primarolo
Minister of State,
Department of Health

19th September 2007

SCHEDULE 1

Regulations 2(1) and 16(2)

Conditions for treatment of natural mineral waters and spring waters with ozone–enriched air

1. Treatment of natural mineral waters and spring waters with ozone-enriched air shall only be carried out if—

(a) it is for the purpose of separating compounds of iron, manganese, sulphur and arsenic from water in which they occur naturally at source;

(b) prior to treatment the requirements of paragraphs 3, 4 and 5 of Schedule 4 are satisfied; and

(c) the treatment does not have a disinfectant action.

2. Treatment of natural mineral waters and spring waters with ozone–enriched air shall not—

(a) modify the physico–chemical composition of the water in terms of its characteristic constituents; or

(b) leave residues in the water which could pose a risk to public health, or, in the case of the substances listed below, above the levels specified.

Treatment residue	*Maximum limit (µg/l)*
Dissolved ozone	50
Bromate	3
Bromoform	1

3. A person seeking to have a treatment with ozone-enriched air authorised shall—

(a) make application in writing to the relevant authority within whose area the water is extracted;

(b) permit representatives of that authority 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 relevant authority.

4. The relevant authority shall assess the application and any information in its possession and shall authorise the treatment if it is satisfied that—

(a) the treatment is justified by the composition of the water at source;

(b) the person carrying out the treatment is taking all necessary measures to ensure that the treatment is effective and safe; and

(c) the treatment otherwise complies with paragraphs 1 and 2.

5. Where the relevant authority decides to authorise a treatment pursuant to paragraph 4, it shall inform the operator of the treatment in writing and state the date from which the authorisation for commercial use of the treatment has effect.

6. Where the relevant authority refuses to authorise a treatment pursuant to paragraph 4, it shall inform the operator of the treatment in writing, stating its reasons.

7. Where a treatment has been authorised pursuant to paragraph 4, the person carrying out the treatment must, for the purpose of enabling the relevant authority to assess whether the conditions in paragraph 4(a) and (b) continue to be satisfied—

(a) permit representatives of the authority 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 authority.

8. If the relevant authority is satisfied that the conditions specified in paragraph 4 are no longer fulfilled, it may withdraw authorisation of a treatment by giving the person operating that treatment a written notice stating the grounds for withdrawal.

9. Where the relevant authority has informed an operator under paragraph 6 of its refusal to authorise a treatment under paragraph 4 or withdraws authorisation of a treatment under paragraph 8, the person who wishes to carry out the treatment may apply to the Agency for a review of that decision.

10. Upon receiving the application for review, the Agency shall make such inquiry into the matter as may seem to the Agency to be appropriate and, having considered the results of that enquiry and any relevant facts elicited by it, shall either confirm the decision or direct the relevant authority to grant or restore, as appropriate, authorisation of the treatment process in operation. In the case of such a direction the relevant authority shall thereupon comply with the said direction.

SCHEDULE 2 Regulations 2(1), 10(1)(b),13, 19 and 21(2)

Requirements for spring water and drinking water
including prescribed concentrations or values of parameters

PART 1

Requirements for spring water and drinking water

1. Water satisfies the requirements of this Schedule if —

(a) the water does not contain —

(i) any micro-organism (other than a parameter) or parasite, or

(ii) any property, element or substance (other than a parameter),

at a concentration or value which would constitute a potential danger to human health;

(b) the water does not contain any substance (whether or not a parameter) at a concentration or value which, in conjunction with any other property, element, substance or organism it contains (whether or not a parameter), would constitute a potential danger to human health;

(c) the water does not contain concentrations or values of any of the parameters listed in Tables A to D in Part 2 of this Schedule in excess of the prescribed concentrations or values; and

(d) in the case of water prepared from water which has been softened or desalinated, its hardness is not below a minimum concentration of 60 mg Ca/l.

2. The concentrations or values of the parameters listed in Tables A to D in Part 2 of this Schedule shall be read in conjunction with the notes thereto.

PART 2

Prescribed concentrations or values

Table A

Column 1 *Item*	*Column 2* *Parameters*	*Column 3* *Units of Measurement*	*Column 4* *Concentration or Value (maximum unless otherwise stated)*
1.	Colour	mg/1 Pt/Co scale	20
2.	Turbidity	NTU	4
3.	Odour	Dilution number	3 at 25°C
4.	Taste	Dilution number	3 at 25°C
5.	Sulphate	mg SO_4/l	250
6.	Sodium	mg Na/l	200
7.	Nitrate	mg NO_3/l	50 (note 1)
8.	Nitrite	mg NO_2/l	0.5 (note 1)
9.	Aluminium	µgAl/l	200
10.	Copper	mg Cu/l	2
11.	Fluoride	mg F/l	1.5
12.	Hydrogen ion concentration	pH units	4.5 (minimum) 9.5 (maximum)
13.	Tritium (for radioactivity)	Bq/l	100
14.	Total indicative dose	mSv/year	0.10 (note 2)
15.	Manganese	µg Mn/l	50

Notes:

1. The concentration (mg/l) of nitrate divided by 50 added to the concentration (mg/l) of nitrite divided by 3 must not exceed 1.
2. Excluding tritium, potassium-40, radon and radon decay products.

Table B

Column 1 *Item*	*Column 2* *Parameters*	*Column 3* *Units of Measurement*	*Column 4* *Maximum Concentration*
1.	Arsenic	µg As/l	10
2.	Cadmium	µg Cd/l	5
3.	Cyanide	µg CN/l	50
4.	Chromium	µg Cr/l	50
5.	Mercury	µg Hg/l	1
6.	Nickel	µg Ni/l	20
7.	Selenium	µg Se/l	10
8.	Antimony	µg Sb/l	5
9.	Lead	µg Pb/l	10
10.	Pesticides and related products:		
	- individual substances	µg/l	0.10 (notes 1 and 2)
	- total substances	µg/l	0.50 (notes 1 and 3)
11.	Polycyclic aromatic Hydrocarbons	µg/l	0.1 sum of concentrations of specified compounds (note 4)
12.	Bromate	µg BrO_3/l	10

Notes:

1. "Pesticides" means:
   - organic insecticides,
   - organic herbicides,
   - organic fungicides,
   - organic nematocides,
   - organic acaricides,
   - organic algicides,
   - organic rodenticides,
   - organic slimicides, and

   related products (inter alia, growth regulators) and their relevant metabolites, degradation and reaction products.

   Only those pesticides which are likely to be present in a given water need to be monitored.
2. The maximum concentration applies to each individual pesticide. In the case of aldrin, dieldrin, heptaclor and heptachlor epoxide the maximum concentration is 0.030 µg/l.
3. The maximum concentration for "total substances" refers to the sum of the concentrations of all individual pesticides detected and quantified in the monitoring procedure.
4. The specified compounds are benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(ghi)perylene, indeno(1.2,3-cd) pyrene.

Table C

Column 1 *Item*	*Column 2* *Parameters*	*Column 3* *Units of Measurement*	*Column 4* *Maximum Concentration*
1.	*Escherichia coli* *(E.coli)*	number/250 ml	0/250 ml
2.	Enterococci	number/250 ml	0/250 ml
3.	Colony count 22°C	number/ml	100/ml (notes 1 and 2)
4.	Colony count 37°C	number/ml	20/ml (notes 1 and 3)
5.	*Pseudomonas aeruginosa*	number/250/ml	0/250 ml

Notes:
1. The total viable colony count should be measured within 12 hours of bottling, with the sample water being kept at a constant temperature during that 12 hour period. Any increase in the total viable colony count of the water between 12 hours after bottling and the time of sale should not be greater than that normally expected.
2. In 72 hours on agar–agar or an agar–gelatine mixture.
3. In 24 hours on agar–agar.

Table D

Column 1 *Item*	*Column 2* *Parameters*	*Column 3* *Units of Measurement*	*Column 4* *Maximum Concentration*
1.	Boron	mg/l	1.0
2.	Benzo (a) pyrene	µg/l	0.010
3.	Tetrachloroethene and Trichloroethene	µg/l	10 (note 1)
4.	Tetrachloromethane	µg/l	3
5.	Benzene	µg/l	1.0
6.	1,2-dichloroethane	µg/l	3.0
7.	Trichloromethane, Dichlororbromomethane, Dibromochloromethane and Tribromomethane	µg/l	100 (note 1)
8.	Epichlorohydrin	µg/l	0.10 (note 2)
9.	Vinyl chloride	µg/l	0.50 (note 2)

Notes:
1. The maximum concentration specified applies to the sum of the concentrations of the specified parameters.
2. The parametric value refers to the residual monomer concentration in the water as calculated according to specifications of the maximum release from the corresponding polymer in contact with the water.

Column 1 *Item*	*Column 2* *Parameters*	*Column 3* *Units of Measurement*	*Column 4* *Maximum Concentration*
10.	Acrylamide	µg/l	0.10 (note 2)

Notes:
1. The maximum concentration specified applies to the sum of the concentrations of the specified parameters.
2. The parametric value refers to the residual monomer concentration in the water as calculated according to specifications of the maximum release from the corresponding polymer in contact with the water.

SCHEDULE 3 Regulations 4(1)(a) and (d)(i),(2)(a) and (c), (8) and (9) and16(1)(a)(iii)

Recognition of natural mineral waters

PART 1

Natural mineral waters extracted from the ground in England

1. A person seeking to have water which is extracted from the ground in England recognised as a natural mineral water for the purposes of Article 1 shall make application in writing to the relevant authority within whose area the water is extracted, giving the particulars set out in paragraph 2.

2. The particulars are—

(a) those specified in paragraph 1 of Part 3;

(b) any other information showing that the matters specified in paragraphs 2 and 3 of Part 3 are established; and

(c) such evidence as is satisfactory to show that the water contains no substance listed in Schedule 6 at a level which exceeds the maximum limit specified in relation to that substance in that Schedule.

3. In so far as particulars of any of the anions, cations, non–ionised compounds or trace elements specified in column 1 of Schedule 5 are required to be given pursuant to sub–paragraph (b) of paragraph 2, the concentration of each such anion, cation, non–ionised compound or trace element shall be expressed in those particulars in the unit of measurement specified opposite to it in column 2 of that Schedule.

4. Where such particulars have been so given, the relevant authority shall assess them and shall recognise the water to which those particulars relate as natural mineral water if it is satisfied that—

(a) the water is natural mineral water which complies with paragraph 3 of Section I of Annex I; and

(b) the characteristics of the water have been assessed in accordance with —

(i) the points numbered 1 to 4 set out in paragraph 2(a) of Section I of Annex I,

(ii) the requirements and criteria listed in Part 3 of this Schedule, and

(iii) recognised scientific methods.

5. The relevant authority shall, on recognising a natural mineral water in accordance with paragraph 4, publish an announcement of such recognition and the grounds on which it has been granted in the London Gazette.

PART 2

Natural mineral waters extracted from the ground in a country other than an EEA State

1. A person seeking to have a water which is extracted from the ground in a country other than an EEA State recognised as a natural mineral water for the purposes of Article 1 shall make application in writing to the Agency, giving the particulars set out in paragraph 2.

2. The particulars are—

(a) those specified in paragraph 1 of Part 3;

(b) any other information showing that the matters specified in paragraphs 2 and 3 of Part 3 are established; and

(c) such evidence as is satisfactory to show that the water contains no substance listed in Schedule 6 at a level which exceeds the maximum limit specified in relation to that substance in that Schedule.

3. In so far as particulars of any of the anions, cations, non–ionised compounds or trace elements specified in column 1 of Schedule 5 are required to be given pursuant to sub-paragraph (b) of paragraph 2, the concentration of each such anion, cation, non–ionised compound or trace element shall be expressed in those particulars in the unit of measurement specified opposite to it in column 2 of that Schedule.

4. The Agency shall recognise such a water if the responsible authority of the country in which the water is extracted has certified that—

(a) it is satisfied —

(i) that the requirements in paragraphs 2 and 3 of Part 3 are established, and

(ii) with the evidence given pursuant to sub–paragraph (c) of paragraph 2; and

(b) periodic checks are made to ascertain that—

(i) the water is natural mineral water which complies with paragraph 3 of Section I of Annex I,

(ii) the characteristics of the water are assessed in accordance with—

(aa) points numbered 1 to 4 set out in paragraph 2(a) of Section I of Annex I;

(bb) the requirements and criteria listed in Part 3; and

(cc) recognised scientific methods, and

(iii) the provisions of Schedule 4 are being applied by the person exploiting the spring.

5. Recognition of such water shall lapse after a period of five years unless the responsible authority of the country in which the water is extracted has renewed the certification required by paragraph 4.

6. The Agency shall, on recognising water in accordance with this Part of this Schedule, publish an announcement of such recognition in the London Gazette, the Edinburgh Gazette and the Belfast Gazette.

PART 3

Requirements and criteria for recognition as a natural mineral water

1. Geological and hydrological surveys must include the following particulars—

(a) the exact site of the catchment with an indication of its altitude, on a map with a scale of not more than 1:1,000;

(b) a detailed geological report on the origin and nature of the terrain;

(c) the stratigraphy of the hydrogeological layer;

(d) a description of the catchment operations; and

(e) the demarcation of the area or details of other measures protecting the spring against pollution.

2. Physical, chemical and physico-chemical surveys must establish—

(a) the rate of flow of the spring;

(b) the temperature of the water at source and the ambient temperature;

(c) the relationship between the nature of the terrain and the nature and type of minerals in the water;

(d) the dry residues at 180°C and 260°C;

(e) the electrical conductivity or resistivity, with the measurement temperature being specified;

(f) the hydrogen ion concentration (pH);

(g) the anions and cations;

(h) the non-ionised elements;

(i) the trace elements;

(j) the radio-actinological properties at source;

(k) where appropriate, the relative isotope levels of the constituent elements of water, oxygen (^{16}O — ^{18}O) and hydrogen (protium, deuterium, tritium); and

(l) the toxicity of certain constituent elements of the water, taking account of the limits laid down for each of them.

3. Microbiological analysis at source must show—

(a) the absence of parasites and pathogenic micro-organisms;

(b) quantitative determination of the revivable colony count indicative of faecal contamination, demonstrating—

(i) absence of *Escherichia coli* and other coliforms in 250 ml at 37°C and 44.5°C,

(ii) absence of faecal streptococci in 250 ml,

(iii) absence of sporulated sulphite-reducing anaerobes in 50ml, and

(iv) absence of *Pseudomonas aeruginosa* in 250 ml; and

(c) the revivable total colony count per ml of water—

(i) at 20 to 22°C in 72 hours on agar-agar or an agar-gelatine mixture, and

(ii) at 37°C in 24 hours on agar-agar.

4.—(1) Subject to sub-paragraph (2), clinical and pharmacological analyses must be carried out in accordance with scientifically recognised methods and should be suited to the particular

characteristics of the natural mineral water and its effects on the human organism, such as diuresis, gastric and intestinal functions, compensation for mineral deficiencies.

(2) Clinical analyses may, in appropriate cases, take the place of analyses referred to in sub-paragraph (1), provided that the consistency and concordance of a substantial number of observations enable the same results to be obtained.

SCHEDULE 4

Regulations 4(2)(b), 5(1)(c) and (2),7(3), 9(2)(b), 10(1)(b) and (3) and16(1)(a)(iv) and paragraph 1(b) ofSchedule 1 and paragraph 4(b)(iii) of Part 2 of Schedule 3

Exploitation and bottling requirements for natural mineral water and spring water

1. Equipment for exploiting the water must be so installed as to avoid any possibility of contamination and to preserve the properties corresponding to those ascribed to it which the water possesses at source.

2. The spring or outlet must be protected against the risks of pollution.

3. The catchment, pipes and reservoirs must be of materials suitable for water and so built as to prevent any chemical, physico-chemical or microbiological alteration of the water.

4. The conditions of exploitation, particularly at the washing and bottling plant, must meet hygiene requirements. In particular, the containers must be so treated or manufactured as to avoid adverse effects on the microbiological and chemical characteristics of the natural water.

5.—(1) Subject to sub-paragraphs (2) and (3), water must not be transported in containers other than those authorised for distribution to the ultimate consumer.

(2) Natural mineral water may be transported from the spring to the bottling plant in a container which is not for distribution to the ultimate consumer if on or before 17th July 1980 water from that spring was so transported.

(3) Water distributed to the ultimate consumer in a bottle marked or labelled with the description "spring water" may be transported from the spring to the bottling plant in a container which is not for distribution to the ultimate consumer if on or before 23rd November 1996 water from that spring was so transported.

6.—(1) The revivable total colony count of the water at source, determined according to sub-paragraph (2), shall conform to the normal viable colony count of that water and shall not show that the source of that water is contaminated.

(2) The colony count is that determined per ml of water—

(a) at 20 to 22 °C in 72 hours on agar-agar or an agar-gelatine mixture; and

(b) at 37 °C in 24 hours on agar-agar.

7.—(1) After bottling, the total colony count of the water at source may not exceed—

(a) 100 per ml at 20 to 22 °C in 72 hours on agar-agar or an agar-gelatine mixture; and

(b) 20 per ml at 37 °C in 24 hours on agar-agar.

(2) The total colony count shall be measured within the period of 12 hours following bottling, the water being maintained at 4 °C +/- 1 °C during the period before which it is measured.

8. Water shall be free from—

(a) Parasites and pathogenic micro-organisms;

(b) *Escherichia coli* and other coliforms and faecal streptococci in any 250 ml sample examined;

(c) Sporulated sulphite-reducing anaerobes in any 50 ml sample examined; and

(d) *Pseudomonas aeruginosa* in any 250 ml sample examined.

SCHEDULE 5

Regulation 4(9) and paragraph 3 of Part 1 of Schedule 3

Particulars of anions, cations, non–ionised compounds and trace elements

Anions	*Unit of measurement*
Borate BO_3^-	mg/1
Carbonate CO_3^{2-}	mg/1
Chloride Cl^-	mg/1
Fluoride F^-	mg/l
Hydrogen Carbonate HCO_3^-	mg/1
Nitrate NO_3^-	mg/1
Nitrite NO_2^-	mg/1
Phosphate PO_4^{3-}	mg/1
Silicate SiO_2	mg/1
Sulphate SO_4^{2-}	mg/1
Sulphide S^{2-}	mg/1
Cations	*Unit of measurement*
Aluminium A1	mg/1
Ammonium NH_4^+	mg/1
Calcium Ca	mg/1
Magnesium Mg	mg/1
Potassium K	mg/l
Sodium Na	mg/1
Non–ionised compounds	*Unit of measurement*
Total organic carbon C	mg/1
Free carbon dioxide CO_2	mg/1

Anions	*Unit of measurement*
Silica SiO_2	mg/l
Trace elements	*Unit of measurement*
Barium Ba	µg/l
Bromine (total) Br	µg/l
Cobalt Co	µg/l
Copper Cu	µg/l
Iodine (total) I	µg/l
Iron Fe	µg/l
Lithium Li	µg/l
Manganese Mn	µg/l
Molybdenum Mo	µg/l
Strontium Sr	µg/l
Zinc Zn	µg/l

SCHEDULE 6

Regulation 7(1) and (2) andparagraph 2(c)of Part 1 of Schedule 3,paragraph 2(c) of Part 2 of Schedule 3and Notes 1 and 2 of Schedule 7

Maximum limits for constituents of natural mineral waters

Constituents	*Maximum limits (mg/l)*
Antimony	0.0050
Arsenic	0.010 (as total)
Barium	1.0
Cadmium	0.003
Chromium	0.050
Copper	1.0
Cyanide	0.070
Fluoride	5.0
Lead	0.010
Manganese	0.50

Note:
The constituents described above refer to constituents naturally present in the water at source and not to substances present as the result of contamination.

Constituents	*Maximum limits (mg/l)*
Mercury	0.0010
Nickel	0.020
Nitrate	50
Nitrite	0.1
Selenium	0.010

Note:
The constituents described above refer to constituents naturally present in the water at source and not to substances present as the result of contamination.

SCHEDULE 7

Regulation 7(2)

Performance characteristics for analysing the constituents in Schedule 6

Constituent	*Accuracy of parametric value in %*	*Precision of parametric value*	*Detection limit of parametric value in %*
Antimony	25	25	25
Arsenic	10	10	10
Barium	25	25	25
Cadmium	10	10	10
Chromium	10	10	10
Copper	10	10	10
Cyanides	10	10	10
Fluoride	10	10	10
Lead	10	10	10
Manganese	10	10	10
Mercury	20	10	20
Nickel	10	10	10
Nitrate	10	10	10
Nitrite	10	10	10
Selenium	10	10	10

Notes:
1. The method of analysis used to measure the concentration of the constituents in Schedule 6 shall be capable of measuring concentrations equal to the parametric value with the specified accuracy, precision and detection limits.
2. Regardless of the sensitivity of the method of analysis, the result must be expressed to at least the same number of decimal places as the maximum limit set out in Schedule 6 for the particular constituent being analysed.
3. Accuracy is the systematic error and represents the difference between the average value of a large number of repeated measurements and the exact value.

4. Precision represents the random error and is expressed in general as the standard deviation (within a batch and between batches) of a sample of results from the average.
5. Acceptable precision is equal to twice the relative standard deviation.
6. The detection limit is—
   (a) three times the relative standard deviation within a batch of a natural sample containing a low concentration of the constituent; or
   (b) five times the relative standard deviation within a batch of a virgin sample.
7. The method should make it possible to determine cyanide in all its forms.

SCHEDULE 8

Regulation 8(1)(e)

Labelling indications for natural mineral water and criteria for use

Indication	Criteria
Low mineral content	Mineral salt content, calculated as a fixed residue, not greater than 500 mg/l
Very low mineral content	Mineral salt content, calculated as a fixed residue, not greater than 50 mg/l
Rich in mineral salts	Mineral salt content. Calculated as a fixed residue, greater than 1500 mg/l
Contains bicarbonate	Bicarbonate content greater than 600 mg/l
Contains sulphate	Sulphate content greater than 200 mg/l
Contains chloride	Chloride content greater than 200 mg/l
Contains calcium	Calcium content greater than 150 mg/l
Contains magnesium	Magnesium content greater than 50 mg/l
Contains fluoride	Fluoride content greater than 1 mg/l
Contains iron	Bivalent iron content greater than 1 mg/l
Acidic	Free carbon dioxide content greater than 250 mg/l
Contains sodium	Sodium content greater than 200 mg/l
Suitable for a low-sodium diet	Sodium content less than 20 mg/l

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations apply in relation to England only. They revoke the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations 1999 (S.I. 1999/1540), which extend to the whole of Great Britain, in so far as they apply in relation to England, and re-enact those Regulations with changes in relation to England. Those Regulations were last amended in relation to England

by the Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) (England) Regulations 2004 (S.I. 2004/656).

2. These Regulations implement in relation to England and to the extent specified in paragraph 3 below the Community instruments specified in that paragraph.

3. The Community instruments are—

(a) Council Directive 80/777/EEC on the approximation of the laws of the Member States relating to the exploitation and marketing of natural mineral waters (OJNo. L229, 30.8.80, p.1) as last amended by Regulation (EC) No. 1882/2003 of the European Parliament and of the Council (OJ L284, 31.10.2003, p.1);

(b) 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 (OJ No. L126, 22.5.2003, p34) ; and

(c) in relation to spring water and bottled drinking water, Council Directive 98/83/EC relating to the quality of water intended for human consumption (OJ No. L330, 3.11.98, p.32) .

4. The principal changes are that—

(a) it is specifically provided that the Regulations do not apply to packaged ice portions for use in cooling food;

(b) the requirements in the Regulations relating to marking and labelling of natural mineral water and spring water are extended to advertising of such water; and

(c) provision is made for retained parts of samples obtained by authorised officers of food authorities for the purpose of analysis to be submitted for analysis to the Government Chemist in specified circumstances.

5. The Regulations—

(a) provide for exemptions from the Regulations in relation to specified types of water and ice for cooling food *(regulation 3)*;

(b) prescribe the conditions for recognition of natural mineral water and the procedures for withdrawal of such recognition and provide for review of decisions not to grant or to withdraw recognition where that is requested by the person affected by the decision (*regulation 4*);

(c) set out the conditions which must be satisfied for springs to be exploited with a view to marketing water from them as natural mineral water and prohibit exploitation of polluted springs until the cause of the pollution is eradicated *(regulation 5)*;

(d) prohibit subjection of natural mineral water to treatments and additions other than specified ones, subject to an exception in the case of such water when used in the manufacture of soft drinks *(regulation 6)*;

(e) prohibit bottling of natural mineral water containing specified substances above specified limits and prescribe the methods to be used for detection of such substances (*regulation 7(1) and (2))*;

(f) prohibit bottling of natural mineral water where specified requirements relating to exploitation of the spring from which the water comes and to bottling of the water are not complied with *(regulation 7(3))*;

(g) prohibit bottling of natural mineral water in containers not satisfying specified requirements *(regulation 7(4))*;

(h) restrict the marking and labelling that may be applied to bottled natural mineral water (including effervescent natural mineral water), require such water to be marked or labelled

with specified information and in two respects regulate advertising of such water in addition to its marking and labelling *(regulation 8)*;

(i) prohibit sale of water in a bottle whose marking or labelling uses the name "natural mineral water" unless it is such water; impose other prohibitions in relation to the sale of bottled natural mineral water; and prohibit the sale of natural mineral water from a single spring under more than one trade description (regulation 9);

(j) prohibit bottling of water in a bottle marked or labelled "spring water" unless the water satisfies specified requirements, prohibit such bottling where the water has been treated with ozone enriched air unless the treatment is an authorised one and prohibit exploitation of polluted springs until the cause of the pollution is eradicated *(regulation 10)*;

(k) restrict the marking and labelling that may be applied to spring water, require such water to be marked or labelled with specified information and in one respect regulate advertising of such water in addition to its marking and labelling *(regulation 11)*;

(l) prohibit sale of water bottled in a bottle marked or labelled "spring water" if the water does not comply with the requirements as regards bottling, labelling and advertisement in regulations 10 and 11 respectively, and prohibit sale of such water from one spring under more than one trade description (*regulation 12*);

(m) prohibit bottling of drinking water unless it satisfies the requirements of Schedule 2 *(regulation 13)*;

(n) impose restrictions on the marking, labelling and advertising of bottled drinking water *(regulation 14)*;

(o) prohibit sale of bottled drinking water not bottled in accordance with regulation 13 or not marked or labelled in accordance with regulation 14 *(regulation 15)*;

(p) allocate responsibility for the enforcement and execution of the Regulations, including the carrying out of specified checks for the purpose of ensuring that specified requirements relating to natural mineral water and the requirements as regards ozone-enriched air oxidation techniques applicable to natural mineral water and spring water are satisfied *(regulation 16)*;

(q) prescribe the arrangements for handling samples of water taken for analysis for the purposes of the Regulations, provide for submission of a part of the sample to the Government Chemist in specified circumstances and require that, for the purpose of determining whether water complies with Schedule 2, methods of analysis according with Article 7.5 of Directive 98/83/EC must be used *(regulations 17 to 19 respectively)*;

(r) provide that contravention of specified provisions of the Regulations is an offence and prescribe the penalty applicable in the event of conviction *(regulation 20)*;

(s) provide defences for any such offence in relation to water bottled, marked and labelled before the Regulations come into force and water bottled or sold in an EEA State other than the UK and compliant with the law in that EEA State when it was bottled or sold *(regulation 21)*;

(t) apply for the purposes of the Regulations certain provisions of the Food Safety Act 1990 and the Food Labelling Regulations 1996 (S.I. 1996/1499 as amended) *(regulation 22(1) and (2));*

(u) prohibit sale of water not marked or labelled in accordance with regulation 38 (intelligibility) of those Regulations *(regulation 22(3))*; and

(v) revoke the Natural Mineral Water Spring Water and Bottled Drinking Water Regulations 1999 (SI 1999/1540 as amended) in so far as they apply in relation to England *(regulation 23)*.

6. The requirement contained in paragraph 1(d) of Part 1 of Schedule 2 to these Regulations has been notified to the European Commission in accordance with the requirements of Article 8 of Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations (OJ No. L 204, 21.7.98, p.37) as amended by Directive 98/48/EC of the European Parliament and of the Council (OJ No. L217, 5.8.98, p.18).

7. A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Consumer Choice and Dietary Health, Labelling Standards and Allergy Division of the Food Standards Agency at Aviation House, 125 Kingsway, London WC2B 6NH and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.