

---

STATUTORY INSTRUMENTS

---

**1985 No. 71**

**FOOD**

**The Natural Mineral Waters Regulations 1985**

*Made* - - - 21st January 1985

*Laid before Parliament* 31st January 1985

*Coming into Operation* —

*Regulations 1 to 10  
and 14 to 28* 21st February 1985

*Regulations 11, 12  
and 13* 21st February 1986

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY

1. Title, extent and commencement.
2. Interpretation.
3. Exemptions.

PART II

RECOGNITION AND EXPLOITATION OF NATURAL MINERAL WATERS

4. Recognition as natural mineral water.
5. Conditions for exploitation of natural mineral water sources.
6. Authorised treatments.
7. Microbiological criteria.
8. Toxic substances.
9. Organoleptic defects.
10. Bottles.

## PART III

## LABELLING AND ADVERTISING

11. Labelling.
12. Commercial designation.
13. Restrictions on labelling and advertising.

## PART IV

## ADMINISTRATION AND ENFORCEMENT

14. Periodic checks.
15. Enforcement.
16. Powers of authorised officers.
17. Confidentiality.
18. Analysis, examination and testing.
19. Samples taken for analysis.
20. Power of court to require analysis, examination or testing by Government Chemist.

## PART V

## OFFENCES AND LEGAL PROCEEDINGS

21. Obstruction.
22. Offences by corporations.
23. Penalties.
24. Protection for authorised officers acting in good faith.
25. Offences due to fault of another person.
26. Defence of due diligence.
27. Conditions under which warranty may be pleaded as defence.

## PART VI

## AMENDMENT

28. Amendment of the Food Labelling Regulations 1984 and the Food Labelling (Scotland) Regulations 1984.

## SCHEDULES

- SCHEDULE 1. Recognition of natural mineral waters.
- SCHEDULE 2. Exploitation of natural mineral water sources.
- SCHEDULE 3. Indications relating to the composition of the water, including reference to special diets.
- SCHEDULE 4. Chemical characteristics of natural mineral waters.

The Minister of Agriculture, Fisheries and Food and the Secretary of State, being Ministers designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the exploitation and marketing of natural mineral waters, acting jointly, in exercise of the powers conferred on them by the said section 2(2) and of all other powers enabling them in that behalf, hereby make the following regulations:—

## PART I

## PRELIMINARY

*Title, extent and commencement*

1.—(1) These regulations, which extend to Great Britain, may be cited as the Natural Mineral Waters Regulations 1985.

(2) Regulations 1 to 10 and 14 to 28 shall come into operation on 21st February 1985.

(3) Regulations 11, 12 and 13 shall come into operation on 21st February 1986.

*Interpretation*

2. In these regulations, unless the context otherwise requires —

“authorised officer” means an officer of a relevant authority in England or Wales or a food and drugs authority authorised by that authority in writing, either generally or specially, to act in matters of any specified kind or in any specified matter;

“bottle” means a sealed container of any kind in which water is sold to the ultimate consumer, and “bottled” and “bottling” shall be construed accordingly;

“carbonated natural mineral water” means an effervescent natural mineral water whose carbon dioxide content derives at least in part from an origin other than the ground water body or deposit from which the water comes;

“commercial designation” means the name under which a natural mineral water is sold, and includes any brand name, trade mark or fancy name;

---

(a) S.I. 1973/1889.

(b) 1972 c.68; section 2 is subject to Schedule 2 to the Act and is to be read, as regards England and Wales, with section 40 of the Criminal Justice Act 1982 (c.48), and as regards Scotland, with section 289F of the Criminal Procedure (Scotland) Act 1975 (c.21), which was inserted by section 54 of the said Act of 1982.

“effervescent natural mineral water” means a natural mineral water which spontaneously and visibly gives off carbon dioxide under ambient conditions of temperature and pressure;

“exploit” means, in relation to a source, take water from, and in relation to water, take; in either case for purposes of trade, business or commerce; and “exploiter” shall be construed accordingly;

“food and drugs authority” has in England and Wales the same meaning as in section 71 of the Food Act 1984(a);

“the Minister” means the Minister of Agriculture, Fisheries and Food;

“natural mineral water” means water which originates in a ground water body or deposit and is extracted for human consumption from the ground through a spring, well, bore or other exit, and which is recognised for the purposes of these regulations in accordance with paragraph (1), (2), (3), (4) or (7) of regulation 4;

“natural mineral water fortified with gas from the spring” means an effervescent natural mineral water whose carbon dioxide content derives from the same ground water body or deposit as the water and is greater than that established at source;

“naturally carbonated natural mineral water” means an effervescent natural mineral water whose carbon dioxide content is the same after decanting (if it is decanted) and bottling as it was at source, and includes a natural mineral water to which carbon dioxide from the same ground water body or deposit as the water has been added if the amount added does not exceed the amount previously released during decanting or bottling;

“public analyst” —

- (a) in England and Wales has the meaning assigned to it by section 76 of the Food Act 1984,
- (b) in Scotland has the meaning assigned to it by section 27 of the Food and Drugs (Scotland) Act 1956(b);

“relevant authority” means, in England and Wales, the district council or London borough council, and in Scotland the district or islands council;

“sell” includes offer, expose or advertise for sale or have in possession for sale, and “sale” and “sold” shall be construed accordingly;

“source” means any point of natural emergence or artificial abstraction of ground water;

“ultimate consumer” means any person who buys otherwise than —

- (a) for the purpose of resale,
- (b) for the purposes of a catering establishment, or
- (c) for the purposes of a manufacturing business.

---

(a) 1984 c.30.

(b) 1956 c.30.

*Exemptions*

3.—(1) These regulations shall not apply to any natural mineral water which —

- (a) is intended at the time of sale for export to any place outside the European Economic Community,
- (b) is supplied under Government contracts for consumption by Her Majesty's forces or supplied for consumption by a visiting force within the meaning of any of the provisions of Part I of the Visiting Forces Act 1952(a),
- (c) has a product licence issued under the provisions of the Medicines Act 1968(b),
- (d) is used at source for curative purposes in thermal or hydromineral establishments, or
- (e) is not intended for sale for human consumption.

(2) Regulations 11, 12 and 13 and Schedule 3 shall not apply to any natural mineral water intended for sale in Northern Ireland or for export to any other place within the European Economic Community.

## PART II

## RECOGNITION AND EXPLOITATION OF NATURAL MINERAL WATERS

*Recognition as natural mineral water*

4.—(1) No water originating in Great Britain shall be recognised as a natural mineral water for the purposes of these regulations unless it has been so designated by the relevant authority in accordance with Part I of Schedule 1 or paragraph (7) of this regulation.

(2) No water originating in Northern Ireland shall be recognised as a natural mineral water for the purposes of these regulations unless it has been so designated by a responsible authority of Northern Ireland.

(3) No water originating in any member state of the European Economic Community other than the United Kingdom shall be recognised as a natural mineral water for the purposes of these regulations unless it has been so designated by a responsible authority of that member state.

(4) No water originating in a country outside the European Economic Community shall be recognised as a natural mineral water for the purposes of these regulations unless it has been so designated by a responsible authority of Northern Ireland or of a member state of that Community other than the United Kingdom or, in accordance with Part II of Schedule 1, by the Minister.

(5) The publication in the Official Journal of the European Communities of the name of any water as that of a recognised natural mineral water shall be conclusive evidence that that water has been so recognised.

---

(a) 1952 c.67.

(b) 1968 c.67.

(6) If at any time after its recognition as a natural mineral water on being designated as such by the relevant authority or by the Minister under paragraph (1) or paragraph (4) respectively or by the relevant authority on the Minister's or the Secretary of State's direction in accordance with paragraph (7) of this regulation, any water originating in Great Britain or in a country outside the European Economic Community is found not to meet any one or more of the standards required for such recognition by Part I of Schedule 1 or any one or more of the requirements of Schedule 2 in connection with the exploitation of the water the relevant authority or, as the case may be, the Minister, may withdraw that recognition until such time as the said standards or requirements are fully met, and during that period of withdrawal of recognition that water shall cease to be recognised as a natural mineral water for the purposes of these regulations.

(7) A person aggrieved by a decision of the relevant authority either not to grant or to withdraw recognition of a water as a natural mineral water for the purposes of these regulations may apply, in the case of a water originating in England or Wales or in a country outside the European Economic Community, to the Minister or, in the case of a water originating in Scotland, to the Secretary of State for Scotland, for a review of that decision, and upon such application being made the Minister or Secretary of State as the case may be shall make such inquiry into the matter as may seem to him appropriate, and, having considered the results of that inquiry and any relevant facts elicited by it, shall either confirm the said decision or direct the relevant authority to grant or restore recognition of the water in question as a natural mineral water, and in the latter case the relevant authority shall thereupon comply with the said direction.

(8) Upon the grant or withdrawal of recognition of any water as a natural mineral water the Minister or, as appropriate, the Secretary of State, shall inform the Commission of the European Economic Community of such grant or withdrawal.

*Conditions for exploitation of natural mineral water sources*

5. No person shall exploit a natural mineral water source, or bottle or sell any water from such a source, unless the requirements of Schedule 2 are satisfied.

*Authorised treatments*

6.—(1) Subject to paragraph (3) of this regulation, no person shall use any treatment, whether for disinfection or for any other purpose, in the processing of a natural mineral water, or add anything thereto, other than —

- (a) filtration or decanting, preceded if necessary by oxygenation, provided that such treatment does not alter the composition of the water in respect of its stable constituents and is not intended to change its total viable colony count;
- (b) the total or partial elimination of carbon dioxide by exclusively physical methods;
- (c) the addition of carbon dioxide, provided that the water is marked or labelled with the appropriate description in accordance with regulation 11.

(2) Subject to paragraph (3) of this regulation, no person shall bottle or sell any natural mineral water which has been subjected to any treatment other than those authorised by paragraph (1) of this regulation.

(3) This regulation shall not prevent the utilisation of a natural mineral water in the manufacture of soft drinks or its sale for the purpose of such utilisation.

*Microbiological criteria*

7.—(1) No person shall —

- (a) bottle or sell any natural mineral water which fails to meet the criteria provided in paragraphs (2) and (4) of this regulation;
- (b) sell any natural mineral water which fails to meet the criteria provided in paragraph (3) of this regulation.

(2) At source, the total viable colony count shall conform to the water's normal viable colony count and give satisfactory evidence of the protection of that source against all contamination. The total viable colony count shall be measured on agar-agar or an agar-gelatine mixture at 20°–22°C in 72 hours and at 37°C in 24 hours on agar-agar.

(3) After bottling, the total viable colony count shall not exceed 100 per ml at 20°–22°C in 72 hours on agar-agar or an agar-gelatine mixture and 20 per ml at 37°C in 24 hours on agar-agar. The total viable colony count shall be measured within the 12 hours after bottling, the water being maintained at 4°C ± 1°C during this period. Thereafter, up to and including the point of sale, the total viable colony count shall be no more than that which results from the normal increase in the bacterial content which the water had at source.

(4) At source and thereafter, up to and including the point of sale, a natural mineral 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;
- (d) *Pseudomonas aeruginosa* in any 250 ml sample examined.

*Toxic substances*

8. No person shall exploit or sell any natural mineral water which contains any substance named in column 1 of the table in paragraph 2(d) of Part I of Schedule 1 in excess of the permitted amount specified in relation to that substance in column 3 of that table or contains any substance in an amount which makes that water unwholesome.

*Organoleptic defects*

9. No person shall bottle or sell any natural mineral water which has any organoleptic defect.

*Bottles*

10. No person shall sell any natural mineral water in any bottle unless that bottle —

- (a) is the same one into which the water was originally put by the exploiter;
- (b) was fitted at the time of filling with closures designed to avoid any possibility of adulteration or contamination; and
- (c) is still fitted with the intact original closures.

## PART III

## LABELLING AND ADVERTISING

*Labelling*

**11.—**(1) Every natural mineral water bottled for sale shall be marked or labelled with the following particulars —

- (a) in the case of a non-effervescent natural mineral water, the description “natural mineral water”,
- (b) in the case of an effervescent natural mineral water, one of the descriptions “naturally carbonated natural mineral water”, “natural mineral water fortified with gas from the spring” or “carbonated natural mineral water”, as appropriate,
- (c) where the natural mineral water has been subjected to the total or partial elimination of free carbon dioxide in accordance with regulation 6(1)(b), the term “fully de-carbonated” or “partially de-carbonated”, as appropriate,
- (d) the name of the place where the source is exploited, and the name of the spring, well or borehole,
- (e) either the words “composition in accordance with the results of the officially recognised analysis of .....” (giving the date of the analysis), or a statement of the analytical composition of the water, including details of its characteristic constituents.

(2) Such particulars shall be readily visible, clearly legible and indelible.

(3) No person shall sell a natural mineral water which is not marked or labelled in accordance with this regulation.

*Commercial designation*

**12.—**(1) The name of a locality, hamlet or other place shall not be used in the commercial designation of a natural mineral water unless —

- (a) it is the name of the locality, hamlet or other place where the source from which the water originates is exploited, and
- (b) it is not used in such a context as to mislead potential purchasers with respect to the place where the source is exploited.

(2) No person shall sell a natural mineral water in the labelling of which, or in the advertising of which, as the case may be, a name has been used in contravention of paragraph (1) of this regulation.

(3) Subject to paragraph (4) of this regulation, no person shall sell a natural mineral water taken from any one source under more than one commercial designation.

(4) For the purposes of paragraph (3) of this regulation a commercial designation which differs from another only by virtue of a brand name, trade mark or fancy name shall be deemed to be the same as that other commercial designation.



(5) No person shall —

- (a) sell a natural mineral water in a bottle labelled or marked with a commercial designation, or
- (b) advertise a natural mineral water under a commercial designation,

unless the name of the source from which the water is taken or that of the place where the source is exploited appears on the label or on the bottle, or, as the case may be, in the advertisement, in letters at least one and a half times the height and width of the largest of the letters used for any other part of the commercial designation.

*Restrictions on labelling and advertising*

**13.—**(1) No description, designation, proprietary name, trade mark, brand name, illustration or other sign, whether emblematic or not, shall be used in the labelling or advertising of a natural mineral water which suggests a characteristic which the water does not possess.

(2) Subject to paragraph (3) of this regulation, no indication attributing properties relating to the prevention, treatment or cure of a human disease shall be used in the labelling or advertising of a natural mineral water.

(3) Paragraph (2) of this regulation shall not prevent the use of an indication specified in column 1 of Schedule 3, if the corresponding condition appearing in column 2 of the said Schedule is satisfied.

(4) No description, designation, proprietary name, trade mark, brand name, illustration or other sign, whether emblematic or not, shall be used in the labelling or advertising of a bottled drinking water which is not recognised as a natural mineral water if that water is thereby made likely to be confused with a water which is so recognised.

(5) No person shall advertise or sell any natural mineral water or bottled drinking water the labelling of which contravenes this regulation.

#### PART IV

##### ADMINISTRATION AND ENFORCEMENT

*Periodic checks*

**14.** The relevant authority shall carry out periodic checks to ascertain whether any water which it has recognised as a natural mineral water for the purposes of these regulations is still suitable for such recognition, and whether the source from which the water is taken is still exploited in accordance with the requirements of Schedule 2.

*Enforcement*

**15.—**(1) It shall be the duty of the relevant authority in England or Wales to enforce within its area of jurisdiction the provisions of regulations 5, 7(2) and 14.

(2) It shall be the duty of the food and drugs authority in England or Wales to enforce within its area of jurisdiction the provisions of regulations 7(1)(b), 10, 11, 12 and 13.

(3) It shall be the duty of the relevant authority and the food and drugs authority in England or Wales to enforce within their respective areas of jurisdiction the provisions of regulations 6, 7(1)(a), 7(3), 7(4), 8 and 9.

(4) It shall be the duty of the relevant authority in Scotland to enforce within its area of jurisdiction the provisions specified in paragraphs (1) to (3) above.

*Powers of authorised officers*

**16.** An authorised officer may at all reasonable hours and on producing, if so required, some duly authenticated document showing his authority, exercise the following powers:

- (a) He may, for the purpose of ascertaining whether any offence under these regulations has been or is being committed, inspect any articles and enter —
  - (i) any premises, other than premises used only as a dwelling, or
  - (ii) any ship, aircraft, hovercraft or vehicle.
- (b) If he has reasonable cause to suspect that an offence under these regulations has been or is being committed he may require any person carrying on a trade or business, or employed therein, to produce any books or documents relating to that trade or business, and he may take copies of any such book or document, or of any entry therein.
- (c) He may, for the purpose of ascertaining whether any offence under these regulations has been committed, purchase or take samples of any water or article to which these regulations apply.

*Confidentiality*

**17.** No information obtained from any books or documents produced in accordance with regulation 16(b) shall, without the previous consent in writing of the person carrying on the trade or business in question, be disclosed except for the purpose of any proceedings for an offence against any of these regulations or any report of those proceedings.

*Analysis, examination and testing*

**18.—(1)** If an authorised officer who has procured a sample of any water or article to which these regulations apply considers that it should be analysed, examined or tested, he shall submit such sample to be analysed, examined or tested as the case may be by the public analyst for the area in which it was procured or, if the office of the public analyst for the area in question is vacant, to the public analyst for some other area.

(2) The public analyst shall analyse, examine or test, or have analysed, examined or tested, as soon as practicable any sample submitted to him in pursuance of this regulation.

(3) A public analyst who has analysed, examined or tested a sample shall give to the person by whom it was submitted a certificate specifying the result of the analysis, examination or test.

(4) Any certificate of the results of an analysis, examination or test given by a public analyst in pursuance of this regulation shall be signed by the public analyst, but the analysis, examination or test may be made by any person acting under the direction of the public analyst.

(5) In any proceedings for an offence under these regulations the production by one of the parties of a document purporting to be a certificate under paragraph (3) of this regulation, or of a document supplied to him by the other party as being a copy of such a certificate, shall be sufficient evidence of the facts stated therein, unless, in the first-mentioned case, the other party requires that the public analyst or a person who has acted under his direction be called as a witness.

(6) In any such proceedings, if a person charged intends to produce a certificate of a public analyst, or under paragraph (5) of this regulation to require the calling of a witness, notice of his intention, together, in the first-mentioned case, with a copy of the certificate, shall be given to the prosecutor at least three clear days before the hearing, and, if this requirement is not complied with, the court may, if it thinks fit, adjourn the hearing on such terms as it thinks proper.

*Samples taken for analysis*

19.—(1) An authorised officer who purchases or takes a sample of any water or article for the purpose of analysis by a public analyst shall deal with the sample in accordance with this regulation.

(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) below, and

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

(3) If the sample was purchased by the authorised officer, he shall give the part of the sample to the vendor.

(4) If the sample is of a water or article consigned from outside Great Britain and was taken by the authorised officer before delivery to the consignee, the officer shall give the part of the sample to the consignee.

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

(6) In every case to which paragraphs (3) to (5) above apply the authorised officer shall inform the person to whom the part of the sample is given that the sample was purchased or taken for the purpose of analysis by a public analyst.

(7) Of the remaining parts of the sample, the authorised officer shall, unless he decides not to have an analysis made, submit one for analysis in accordance with regulation 18, and retain the other for future comparison.

(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 inquiry 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 or article, of which he has procured a sample for the purpose of analysis by a public analyst, was exploited, bottled or manufactured 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 article or any container thereof, 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, on payment to the authority by whose officer the sample was procured of a fee of 5p, to be supplied with a copy of the certificate given by the public analyst under regulation 18(3).

*Power of court to require analysis, examination or testing by Government Chemist*

20.—(1) The court before which any proceedings are brought for an offence under these regulations may, if it thinks fit for the purposes of the proceedings, cause any water or article which is the subject of the proceedings and, if it has already been analysed, examined or tested, is capable of being further analysed, examined or tested, to be sent to the Government Chemist, who shall make such analysis, examination or test as is appropriate and transmit to the court a certificate of the result thereof, and the costs of analysis, examination or test shall be paid by the prosecutor or the person charged as the court may order.

(2) If in a case in which an appeal is brought no action has been taken under paragraph (1) of this regulation, the provisions thereof shall apply in relation to the court by which the appeal is heard.

(3) Any certificate of the results of an analysis, examination or test transmitted by the Government Chemist under this regulation shall be signed by or on behalf of the Government Chemist, but the analysis, examination or test may be made by any person under the direction of the person by whom the certificate is signed; and any certificate so transmitted by the Government Chemist shall be evidence of the facts stated therein unless any party to the proceedings requires that the person by whom it is signed or a person acting under his direction be called as a witness.

## PART V

### OFFENCES AND LEGAL PROCEEDINGS

*Obstruction*

21. No person shall —

- (a) intentionally obstruct an authorised officer acting in execution of these regulations, or

- (b) without reasonable excuse fail to give to any such authorised officer any assistance or information or to provide such facilities as he may reasonably require of him for the purposes of his functions under these regulations.

*Offences by corporations*

22.—(1) Where an offence under these regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of the offence.

(2) In this regulation the expression “director”, in relation to any body corporate which is established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking and whose affairs are managed by its members, means a member of that body.

*Penalties*

23. If any person contravenes or fails to comply with any of the provisions of these regulations he shall be guilty of an offence, and liable on summary conviction in the case of regulation 21 to a fine not exceeding £400, and in any other case to a fine not exceeding £2,000.

*Protection for authorised officers acting in good faith*

24.—(1) An authorised officer shall not be personally liable in respect of any act done by him in the execution or purported execution of these regulations and within the scope of his employment, if he did that act in the honest belief that his duty under these regulations required or entitled him to do it; but nothing in this paragraph shall be construed as relieving a relevant authority from any liability in respect of acts of its officers.

(2) Where an action has been brought against an authorised officer in respect of an act done by him in the execution or purported execution of these regulations and the circumstances are such that he is not legally entitled to require the relevant authority to indemnify him, the authority may, nevertheless, indemnify him against the whole or a part of any damages and costs which he may have been ordered to pay or which he may have incurred, if they are satisfied that he honestly believed that the act complained of was within the scope of his employment and that his duty under these regulations required or entitled him to do it.

(3) For the purposes of this regulation, a public analyst shall be treated as being an authorised officer of any relevant authority on whose behalf or at whose instance he carries out or has carried out any analysis, examination or test under regulation 18.

*Offences due to fault of another person*

25. Where the commission by any person of an offence under these regulations is due to the act or default of some other person that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are brought against the first-mentioned person.

*Defence of due diligence*

26.—(1) In any proceedings for an offence under these regulations it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(2) If in any case the defence provided by the last foregoing paragraph involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information to identify or assist in identifying that other person as was then in his possession.

*Conditions under which warranty may be pleaded as defence*

27.—(1) In any proceedings for an offence under these regulations, being an offence consisting of selling (within the meaning of regulation 2) any water to which these regulations apply, it shall be a defence for the person charged to prove —

- (a) that he purchased the water as water which could lawfully be sold and with a written warranty to that effect;
- (b) that he had no reason to believe at the time of the alleged offence that it was otherwise; and
- (c) that it was at that time in the same state as when he purchased it.

(2) A warranty shall only be a defence in proceedings under these regulations if —

- (a) the person charged
  - (i) has, not later than seven clear days before the date of the hearing, sent to the prosecutor a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it, and
  - (ii) has also sent a like notice of his intention to that person, and
- (b) in the case of a warranty given by a person resident outside the United Kingdom, the person charged proves that he had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained therein.

(3) In determining whether a person charged has in fact taken reasonable steps to ascertain the accuracy of any statement contained in a warranty the court shall take into consideration —

- (a) the extent and frequency of visits by the person charged or his agent to the premises or site of exploitation of the water or to its bottling plant, and
- (b) the results of any analysis of the water obtained by the person charged otherwise than under regulation 18 or 19.

(4) Where the person charged is an employee of the person who purchased the water under a warranty, he shall be entitled to rely on the provisions of this regulation in the same way as his employer would have been entitled to do if he had been the person charged.

(5) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

(6) For the purposes of this regulation, a description entered in an invoice shall be deemed to be a written warranty that the water to which the entry refers can be sold or otherwise dealt with under that description by any person without contravening any of the provisions of these regulations.

## PART VI

### AMENDMENT

#### *Amendment of the Food Labelling Regulations 1984 and the Food Labelling (Scotland) Regulations 1984*

28. The Food Labelling Regulations 1984(a) and the Food Labelling (Scotland) Regulations 1984(b) are hereby amended by inserting, in each case —

(a) in regulation 2(1), after the definition of “flour confectionery”, the following definition:

“ “food” includes drink, chewing gum and other products of a like nature and use, and articles and substances used as ingredients in the preparation of food or drink or of such products, but does not include —

- (a) water (except natural mineral water within the meaning of the Natural Mineral Waters Regulations 1985), live animals or birds,
- (b) fodder or feeding stuffs for animals, birds or fish, or
- (c) articles or substances used only as drugs.”;

(b) in regulation 3, after paragraph (2), the following paragraphs:

“(3) Subject to paragraph (4) of this regulation, regulation 30 and Part IV of these regulations shall not apply to natural mineral water (other than such water which has been artificially carbonated).

(4) Regulations 36 and 37 shall apply to natural mineral water within the meaning of the Natural Mineral Waters Regulations 1985 in so far as they relate to items 3 and 4 of Schedule 6, and regulation 38 shall apply to such water in so far as it relates to the descriptions “dietary” and “dietetic” in Schedule 7.”

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 17th January 1985.

L.S.

*Michael Jopling,*  
Minister of Agriculture, Fisheries and Food.

*George Younger,*  
One of Her Majesty’s Principal Secretaries of State.

21st January 1985.

(a) S.I. 1984/1305.

(b) S.I. 1984/1519.

## Regulation 4(1) and (4)

## SCHEDULE 1

## RECOGNITION OF NATURAL MINERAL WATERS

## PART I

## NATURAL MINERAL WATERS ORIGINATING IN GREAT BRITAIN

1. A person seeking recognition of a natural mineral water for the purposes of these regulations shall make application in writing to the relevant authority within whose area the source is exploited, giving the particulars set out in paragraph 2 below.

2. (a) *Hydrogeological description*
- (i) The exact location of the source showing its altitude, on a map with a scale no larger than 1:1,000 and no smaller than 1:25,000;
  - (ii) the hydrogeology of the source, including a detailed geological description of the surrounding terrain;
  - (iii) a description of the equipment for water abstraction; and
  - (iv) a detailed description of the site of the source, with measures taken to protect the emerging water against pollution.
- (b) *Physical and chemical characteristics of the water*
- (i) The rate of natural flow of the spring, and its seasonal variations, or the maximum discharge rate of the source;
  - (ii) the temperature of the water at source;
  - (iii) the relationship between the nature of the terrain and the nature and type of inorganic constituents in the water;
  - (iv) the dry residues at 180°C and 260°C;
  - (v) the electrical conductivity, specifying the measurement temperature;
  - (vi) the hydrogen ion concentration (pH);
  - (vii) the concentration of cations and anions specified in Schedule 4;
  - (viii) the concentration of non-ionised compounds specified in Schedule 4;
  - (ix) the concentration of trace elements specified in Schedule 4;
  - (x) the radio-activity of the water at source specifying gross alpha and gross beta activity; and
  - (xi) if the water is intended to be sold as having particular levels or ratios of isotopes, the relative levels or ratios of those isotopes.
- (c) *Microbiological analyses*  
These analyses must include —
- (i) demonstration of the absence of parasites and pathogenic micro-organisms;
  - (ii) quantitative determination of the indicators of faecal contamination, showing
    - (a) absence of *Escherichia coli* and other coliforms in 250 ml at 37°C and 44.5°C;
    - (b) absence of faecal streptococci in 250 ml;
    - (c) absence of sporulated sulphite-reducing anaerobes in 50 ml; and
    - (d) absence of *Pseudomonas aeruginosa* in 250 ml.
  - (iii) determination of the total viable colony count per millilitre of water —
    - (a) at 20°–22°C in 72 hours on agar-agar or agar-gelatine mixture; and
    - (b) at 37°C in 24 hours on agar-agar.



(d) *Toxic substances*

Satisfactory evidence to show that the water contains no substance named in column 1 below in an amount exceeding the limit imposed in relation thereto in column 3, expressed in the terms prescribed in column 2:

Column 1 Substance	Column 2 Expression of results	Column 3 Maximum limit ( $\mu\text{g}/1$ )
Arsenic	As $\mu\text{g}/1$	50
Cadmium	Cd $\mu\text{g}/1$	5
Cyanide	CN $\mu\text{g}/1$	50
Chromium	Cr $\mu\text{g}/1$	50
Mercury	Hg $\mu\text{g}/1$	1
Nickel	Ni $\mu\text{g}/1$	50
Antimony	Sb $\mu\text{g}/1$	10
Selenium	Se $\mu\text{g}/1$	10
Lead	Pb $\mu\text{g}/1$	10

(e) *Freedom from pollution*

Satisfactory evidence to show that the water is free from pollution, and that it meets in this respect the requirements of Schedule 2.

(f) *Stability*

Satisfactory evidence to show that the composition, temperature and other essential characteristics of the water remain stable within the limits of natural fluctuation.

3. The relevant authority shall assess the particulars given by the applicant, and shall grant recognition for the purposes of these regulations if it is satisfied with the information provided.

4. The relevant authority shall, on granting recognition in accordance with paragraph 3 above, publish an announcement of such recognition and the grounds on which it has been granted in the London Gazette and the Edinburgh Gazette.

## PART II

## RECOGNITION IN GREAT BRITAIN OF NATURAL MINERAL WATERS FROM COUNTRIES OUTSIDE THE EUROPEAN ECONOMIC COMMUNITY

1. A person seeking recognition in Great Britain of a natural mineral water originating in a country outside the European Economic Community shall make application in writing to the Minister, giving the same particulars as those required by paragraph 1 of Part I of this Schedule.

2. The Minister shall not grant recognition of such a natural mineral water unless the responsible authority of the country of origin has certified that —

- (a) it is satisfied as to the matters set out in paragraph 2 of Part I of this Schedule, and
- (b) regular checks are made on the matters specified in Schedule 2.

3. Recognition of such a natural mineral water shall lapse after a period of two years unless the responsible authority of the country of origin has renewed the certification required by paragraph 2 above.

4. The Minister shall, on granting recognition in accordance with this Part of this Schedule, publish an announcement of such recognition and the grounds on which it has been granted in the London Gazette and the Edinburgh Gazette.

*Regulation 5*

## SCHEDULE 2

EXPLOITATION OF NATURAL MINERAL WATER SOURCES  
GENERAL REQUIREMENTS

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. In pursuance of the requirements of paragraph 1 above, and without prejudice to the generality thereof—
  - (a) the source must be protected against risks of pollution;
  - (b) the equipment for water extraction, pipes and reservoirs shall be of materials suitable for their purpose, and so made as to minimise chemical, physico-chemical or microbiological alteration of the water;
  - (c) the containers shall be so treated or manufactured as to minimise effects on the microbiological and chemical characteristics of the water;
  - (d) the washing and bottling plant and all other aspects of exploitation shall be of a satisfactory hygienic standard; and
  - (e) subject to paragraph 3 below, the water shall be transported from the source in the containers in which it is to be sold to consumers.
3. Notwithstanding subparagraph (e) of paragraph 2 above, it is lawful to transport natural mineral water in tanks from a source to a bottling plant which are both within Great Britain if such transport was being carried on for the purpose of exploiting the source before the 17th July 1980, regardless of the description applied by the exploiter to the water at that time.
4. Where during exploitation of any source the water no longer meets the microbiological criteria provided in regulation 7(2) and (4) no further exploitation or bottling shall take place at that source until the said criteria are once again fully met.

## SCHEDULE 3

*Regulation 13(3)*

## INDICATIONS RELATING TO THE COMPOSITION OF THE WATER, INCLUDING REFERENCE TO SPECIAL DIETS

Column 1	Column 2
Indications	Conditions
“Low mineral content”	The inorganic constituents, calculated as dry residue, shall not be above 500 mg per litre.
“Very low mineral content”	The inorganic constituents, calculated as dry residue, shall not be above 50 mg per litre.
“Rich in mineral salts”	The inorganic constituents, calculated as dry residue, shall be above 1,500 mg per litre.
“Contains bicarbonate”	The bicarbonate content shall be above 600 mg per litre.
“Contains sulphate”	The sulphate content shall be above 200 mg per litre.
“Contains chloride”	The chloride content shall be above 200 mg per litre.
“Contains calcium”	The calcium content shall be above 150 mg per litre.
“Contains magnesium”	The magnesium content shall be above 50 mg per litre.
“Contains fluoride”	The fluoride content shall be above 1 mg per litre.
“Contains iron”	The bivalent iron content shall be above 1 mg per litre.
“Acidic”	The free carbon dioxide content shall be above 250 mg per litre.
“Contains sodium”	The sodium content shall be above 200 mg per litre.
“Suitable for a low sodium diet”	The sodium content shall not be above 20 mg per litre.

## Schedule 1 Part 1

## SCHEDULE 4

## CHEMICAL CHARACTERISTICS OF NATURAL MINERAL WATERS

## 1. Concentrations to be specified —

## (a) under paragraph 2(b) (vii) of Part I of Schedule 1:

<i>Cations</i>	<i>Expressed as</i>	<i>Anions</i>	<i>Expressed as</i>
Aluminium	Al mg/l	Borate	BO <sub>3</sub> <sup>-</sup> mg/l
Ammonium	NH <sub>4</sub> <sup>+</sup> mg/l	Carbonate	CO <sub>3</sub> <sup>2-</sup> mg/l
Calcium	Ca mg/l	Chloride	Cl <sup>-</sup> mg/l
Magnesium	Mg mg/l	Fluoride	F <sup>-</sup> mg/l
Potassium	K mg/l	Hydrogen Carbonate	HCO <sub>3</sub> <sup>-</sup> mg/l
Sodium	Na mg/l	Nitrate	NO <sub>3</sub> <sup>-</sup> mg/l
		Nitrite	NO <sub>2</sub> <sup>-</sup> mg/l
		Phosphate	P <sub>2</sub> O <sub>5</sub> mg/l
		Silicate	SiO <sub>2</sub> mg/l
		Sulphate	SO <sub>4</sub> <sup>2-</sup> mg/l
		Sulphide	S <sup>2-</sup> mg/l

## (b) under paragraph 2(b)(viii) of Part I of Schedule 1:

<i>Non-ionised compounds</i>	<i>Expressed as</i>
Total organic carbon	C mg/l
Free carbon dioxide	CO <sub>2</sub> mg/l
Silica	SiO <sub>2</sub> mg/l

## (c) under paragraph 2(b)(ix) of Part I of Schedule 1:

<i>Trace elements</i>	<i>Expressed as</i>	<i>Trace elements</i>	<i>Expressed as</i>
Barium	Ba µg/l	Lithium	Li µg/l
Bromine (total)	Br µg/l	Manganese	Mn µg/l
Cobalt	Co µg/l	Molybdenum	Mo µg/l
Copper	Cu µg/l	Strontium	Sr µg/l
Iodine (total)	I µg/l	Zinc	Zn µg/l
Iron	Fe µg/l		

2. If the hydrogeological report required by paragraph 2(a)(ii) of Part I of Schedule 1 indicates that any cation, anion, non-ionised compound or trace element other than those specified in paragraph 1 above is likely to occur in the water, its concentration, if ascertainable, shall be specified.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These regulations, which apply throughout Great Britain, come into operation on 21st February 1985 with the exception of Part III, which comes into operation on 21st February 1986. The regulations implement Council Directive No. 80/777/EEC (O.J. No. L229, 30.8.80, p.1), on the approximation of the laws of the member states relating to the exploitation and marketing of natural mineral waters.

The regulations —

- (a) require all natural mineral waters to be officially recognised (regulation 4);
- (b) prescribe conditions for the exploitation of natural mineral water sources (regulation 5);
- (c) regulate the treatment of natural mineral waters (regulation 6);
- (d) create certain offences in relation to the criteria for microbiological content of natural mineral waters (regulation 7);
- (e) prohibit the sale of natural mineral waters containing toxic substances (regulation 8) or having organoleptic defects (regulation 9);
- (f) require containers of natural mineral waters to be sealed (regulation 10);
- (g) specify mandatory particulars with which natural mineral waters shall be marked or labelled (regulation 11);
- (h) regulate the commercial designations which may be used for natural mineral waters (regulation 12);
- (i) contain restrictions and requirements as to labelling and advertising (regulation 13);
- (j) provide for periodic checks by local authorities of natural mineral water sources (regulation 14);
- (k) make provision for penalties and enforcement etc. (regulations 15 to 27); and
- (l) amend the Food Labelling Regulations 1984 and the Food Labelling (Scotland) Regulations 1984 so as to make them applicable with certain exceptions to natural mineral water within the meaning of these regulations (regulation 28).

The regulations as a whole do not apply to waters intended for export to countries outside the European Economic Community, or for consumption by Her Majesty's forces or any visiting force, or for medical or other curative purposes, or not intended for human consumption, and those provisions which regulate the labelling and advertising of waters for sale (regulations 11, 12 and 13 and Schedule 3) do not apply to waters intended for sale in Northern Ireland or for export to other member states of the European Economic Community (regulation 3).

SI 1985/71  
ISBN 0-11-056071-X



780110560717