

## SCHEDULE 12

Regulations 33 and 34

### Application and modification of provisions of the Order

#### **Part 1**

##### Modification of Article 9(1)

1. For Article 9(1) (improvement notices), substitute—

“(1) If an authorised officer has reasonable grounds for believing that a person is failing to comply with any provision specified in paragraph (1A), the authorised officer may, by a notice served on that person (in this Order referred to as an “improvement notice”)—

- (a) state the officer's grounds for believing that the person is failing to comply with the relevant provision;
- (b) specify the matters which constitute the person's failure so to comply;
- (c) specify the measures which, in the officer's opinion, the person must take in order to secure compliance; and
- (d) require the person to take those measures, or measures that are at least equivalent to them, within such period as may be specified in the notice.

(1A) The provisions referred to in paragraph (1) are—

- (a) any of regulations 8 to 22 of the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015; and
- (b) any of the following provisions of Commission Regulation (EU) No. 115/2010 laying down the conditions for use of activated alumina for the removal of fluoride from natural mineral waters and spring waters—
  - (i) Article 1.2 (requirement that any fluoride removal treatment be performed in accordance with the technical requirements set out in the Annex);
  - (ii) the first sentence of Article 2 (requirement that the release of residues into natural mineral water or spring water as a result of any fluoride removal treatment be as low as technically feasible according to the best practices and not pose a risk to public health);
  - (iii) the second sentence of Article 2 (requirement to ensure compliance with the first sentence of Article 2, operators implement and monitor the critical processing steps set out in the Annex);
  - (iv) Article 3.1 (requirement that the application of fluoride removal treatment be notified to the competent authorities at least three months prior to use); and
  - (v) Article 4 (requirement that the label on natural mineral water or spring water subjected to any fluoride removal treatment include specified information in proximity to the statement of the analytical composition).”

#### **PART 2**

##### Modification of Article 33(1)

1. In Article 33(1) for subparagraphs (a) to (c) (powers of entry) substitute—

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- “(a) to enter any premises within the council's district for the purpose of ascertaining whether there is or has been on the premises any contravention of the provisions of Commission Regulation (EU) No.115/2010 laying down the conditions for use of activated alumina for the removal of fluoride from natural mineral waters and spring waters specified in Article 9(1A)(b) as applied and modified by regulation 33 and Part 2 of Schedule 12 to the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015; and
- (b) to enter any business premises, whether within or outside of the council's district, for the purpose of ascertaining whether there is on the premises any evidence of any contravention within that area of any such provisions;”.

### **PART 3**

#### **Modification of Article 37 and 38**

1. For Article 37(1) of the Order (appeals), substitute—

“(1) Any person who is aggrieved by a decision of an authorised officer to serve an improvement notice under Article 9(1) as applied and modified by Regulation 33(1) and Part 1 of Schedule 12 of the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015 may appeal to a court of summary jurisdiction”.

2. In Article 37(2A)(b) for “(1)(a)” substitute “(1) as applied and modified by regulation 34(2) of and Part 3, of Schedule 12 of the Natural Mineral Water, Spring Water and Bottled Drinking Water (Northern Ireland) Regulations 2015.

3. In both Article 38(1) and (2) of the Order after “improvement notice” insert “under Article 9(1) as applied and modified by regulation 33(1) and Part 1 of Schedule 12 of the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015”.

### **Part 4**

#### **Application and modification of other provisions of the Order**

<b><i>Provision of the Order</i></b>	<b><i>Modifications</i></b>
Article 2(4) (extended meaning of “sale” etc.) Article 3 (application to food offered as prizes etc.)	For “this Order” substitute “the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015”. For “This Order” substitute “The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015”.
Article 4 (presumptions that food intended for human consumption)	In paragraph (1), for “this Order” substitute “the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015”.
Article 19 (offences due to fault of another person)	For “any of the preceding provisions of this part” substitute “Article 9(2) as applied by regulation 33(1) of, and Schedule 12 to the Natural Mineral Water, Spring Water and Bottled

	Drinking Water Regulations (Northern Ireland) 2015.”.
Article 20 (defence of due diligence)	In paragraph (1), for “any of the preceding provisions of this Part” substitute “Article 9(2) as applied by regulation 33(1) of Part 1, Schedule 12 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015.”. Omit paragraphs (2)-(4)
Article 29 (procurement of samples)	In paragraph (b)(ii), after “under Article 33 below”, insert “as applied by regulation 34(1) of Part 2, Schedule 12 to the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015”.
Article 30(8) (evidence of certificates given by a food analyst or examiner)	For “this Order” substitute “the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015”.
Article 34 (obstruction etc. of officers)	In paragraph (1), for “this Order” (in each place where it occurs) substitute “the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015”.
Article 36(1) and (2) (punishment of offences)	In paragraph (1), after “Article 34(1)” insert “, as applied and modified by regulation 34(3) of Part 4, Schedule 12 to the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015” After subparagraph (1), insert— “(1A) A person guilty of an offence under Article 9(2), as applied by regulation 33(1) of Part 1, Schedule 12 to the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015 shall be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.”. In paragraph (2) for “any other offence under this Order” substitute “an offence under Article 34, as applied by regulation 34(3) of Part 2, Schedule 12 to the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015.”.

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**Changes to legislation:**

There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015, SCHEDULE 12.