
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 435

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

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) Regulations 2007 and shall come into force on 31st October 2007.

(2) These Regulations extend to Scotland only.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Food Safety Act 1990;

“advertisement” and “advertise” shall have the same meaning as in the Food Labelling Regulations 1996(1);

“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 Scotland from other parts of the United Kingdom or from an 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 “bottled” 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(2) as amended by Directive [96/70/EC](#) of the European Parliament and of the Council(3);

“Directive 98/83” means Council Directive [98/83/EC](#) relating to the quality of water intended for human consumption(4) as corrected by a Corrigendum dated 20th April 2001(5);

(1) S.I.1996/1499, to which there are amendments not relevant to these Regulations.

(2) O.J. No. L 229, 30.8.80, p.1.

(3) O.J. No. L 299, 23.11.96, p.26.

(4) O.J. No. L 330, 5.12.98, p.32.

(5) O.J. No. L 111, 20.4.01, p.31.

“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⁽⁶⁾;

“drinking water” means water 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—

- (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 by the following characteristics having been preserved intact because of the underground origin of the water, which has been protected from all risk of pollution—
 - (i) its nature, which is characterised by its mineral content, trace elements or other constituents and, where applicable, by certain effects;
 - (ii) its original state; and
- (d) is for the time being recognised in accordance with regulation 4;

“parameter” means a property, element, organism or substance listed in the second column of the Tables 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 the Tables in Part 2 of Schedule 2 as measured by reference to the unit of measurement so specified;

“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 Council Directives 80/777, 98/83 or 2003/40 have the same meaning in these Regulations as they have in the Directive concerned.

(3) Any reference in these Regulations to a numbered Article or Annex is 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 after bottling.

Exemptions

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

- (a) has a product licence issued under the Medicines Act 1968⁽⁷⁾ or a marketing authorisation within the meaning of the Medicines for Human Use (Marketing Authorisations etc.) Regulations 1994⁽⁸⁾ or a marketing authorisation to which Veterinary Medicines Regulations 2005⁽⁹⁾ apply;

⁽⁶⁾ O.J. No. L 126, 22.5.03, p.34.

⁽⁷⁾ [1968 c. 67](#).

⁽⁸⁾ S.I. 1994/3144; to which there are amendments not relevant to these Regulations.

⁽⁹⁾ [2005/2745](#).

- (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.

PART 2

Natural mineral water

Recognition as natural mineral water

- 4.—(1) Water is recognised as a natural mineral water where recognition is granted—
- (a) in the case of water extracted from the ground in Scotland, by the food 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 by a responsible authority of that part of the United Kingdom pursuant to Directive 80/777;
 - (c) in the case of water extracted from the ground in an EEA State other than the United Kingdom by a responsible authority of that State pursuant to Directive 80/777; and
 - (d) in the case of water extracted from the ground in a country other than an EEA State—
 - (i) by the Agency, in accordance with Part 2 of Schedule 3; or
 - (ii) in accordance with an equivalent recognition by a responsible authority in—
 - (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) that, by analysis in accordance with Part 3 of Schedule 3, the requirements 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) in Part 1 or, as the case may be, paragraph 2(c) in Part 2 of Schedule 3,
- the food authority or, as the case may be, the Agency, may withdraw that recognition until those requirements are met.
- (3) Where—
- (a) the food 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 land on which that spring is situated, may apply to the Agency for a review of that decision.
- (4) Where an application for review of a decision has been made under paragraph (3), the Agency shall make such inquiry into the matter as it considers 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 food 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 Agency or food authority, as appropriate, to have that recognition withdrawn.
- (6) Where a food 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;
 - (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 water granted under the Natural Mineral Waters Regulations 1985⁽¹⁰⁾ or the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations 1999⁽¹¹⁾ and subsisting on the date that these Regulations come into force shall—
- (a) in the case of water extracted from the ground in Scotland, be treated as if it were recognition granted by the food 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 Community 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 food 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 these 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 this

⁽¹⁰⁾ S.I. 1985/71, revoked by S.S.I. 1999/1540.

⁽¹¹⁾ S.I. 1999/1540, as amended by S.S.I. 2000/62; S.S.I. 2003/139 and S.S.I. 2004/132.

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.

(2) Paragraph (1) shall not prevent the utilisation 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 advertisement of natural mineral waters

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

(a) a trade description which includes the name of a locality, hamlet or 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, if any, 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—
 - (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;
 - (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;
 - (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 unless the bottle is marked or labelled with—

- (a) a statement of analytical composition which statement shall indicate 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, “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) “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 mandatory information 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 importance 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 250ml sample examined,
 - (iii) Sporulated sulphite-reducing anaerobes in any 50ml sample examined, or
 - (iv) *Pseudomonas aeruginosa* in any 250ml sample examined;
 - (b) where the total colony count of that 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; and
 - (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) has been subjected to any treatment or addition in contravention of regulation 6; or
 - (c) 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;
- (b) meets the requirements of Schedule 2; and
- (c) meets the requirements of Schedule 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 advertisement 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 place, unless that trade description refers to a 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 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, “water subjected to an authorised ozone-enriched air oxidation technique” which shall appear in proximity to the particulars referred to in sub-paragraphs (a) and (b).

(4) Where, paragraph (2)(b) would apply in relation to the labelling of a spring water to require an indication of the place of exploitation or the name of the spring in addition to a trade description—

- (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;
- (b) which is 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 it meets the requirements of Schedule 2.

Marking, labelling and advertising of bottled drinking water

14. No person shall—

- (a) cause any drinking water which is not natural mineral water 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 is not natural mineral water 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—

- (a) which has been bottled other than as specified in regulation 13;
- (b) which has been marked or labelled other than as specified in regulation 14.

PART 5

Miscellaneous and supplemental

Enforcement

16. Each food authority shall, within its area—

- (a) enforce and execute these Regulations;
- (b) for the purposes of carrying out that function take the steps required of member States and competent authorities by Articles 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;
- (c) 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 fluctuation,
 - (ii) without prejudice to item (i), 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.
- (d) 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.

Arrangements for samples taken for analysis

17.—(1) An authorised officer 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, the officer 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 Scotland and was taken by the authorised officer before delivery to a person who intends to sell that water in Scotland, the officer shall give the part of the sample to that person.

(5) If neither paragraph (3) nor (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 paragraphs (3) to (5) apply 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) Of the remaining parts of the sample, the authorised officer shall, if an analysis is to be carried out, submit one 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 that person or to an agent of that person or by sending it 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 the officer 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) whose name and an address in Scotland is displayed on the bottle or any other container, the officer shall, unless the officer decides not to have an analysis made, within three days of procuring the sample, by a notice inform that person—

- (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 relevant food authority, to be supplied with a copy of the certificate of analysis by that authority.

Submission of samples to the Government Chemist

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

- (a) a decision has been made to send a report to the procurator fiscal or proceedings have been commenced against a person for an offence under these Regulations; and
- (b) the result of the analysis carried out in accordance with regulation 17(7) is to be adduced as evidence,

paragraphs (2) to (6) apply.

(2) The authorised officer—

(a) may of the officer’s own volition; and

(b) shall—

(i) if requested by the prosecutor;

(ii) if the court so orders on the application of the prosecutor or the accused; or

(iii) if requested by the accused (subject to paragraph (5)),

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

(3) The Government Chemist shall analyse the part sent under paragraph (2) and where the analysis is carried out—

(a) under paragraph (2)(a) or (b)(i) or (iii), provide the authorised officer; or

(b) under paragraph (2)(ii), provide the prosecutor and the accused,

with a certificate of analysis.

(4) The authorised officer shall immediately on receipt supply the prosecutor and the accused with a copy of the Government Chemist’s certificate of analysis.

(5) Where a request is made under paragraph (2)(b)(iii) the authorised officer may give notice in writing to the accused requesting payment of a fee specified in the notice in respect of the functions mentioned in paragraph (3), and in the absence of agreement by the accused to pay the fee the authorised officer may refuse to comply with the request.

(6) In this regulation “accused” includes a person who is intended to be the subject of a report to the procurator fiscal.

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

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) no offence would have been committed under the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations 1999(12) as they were in force immediately before the coming into force of these Regulations.

(2) In any proceedings for an offence under these Regulations where it is alleged that water does not meet the requirements in paragraph 1(d) of Part 1 of Schedule 2, it shall be a defence for the 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 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 (presumption 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 sections 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 (obstruction etc. of officers);
- (h) section 35(1) to (3) (punishment of offences) in so far as it relates to offences under section 33(1) and (2) as applied by sub-paragraph (g);
- (i) section 36 (offences by bodies corporate);
- (j) section 36A (offences by Scottish partnerships); and
- (k) section 44 (protection of officers acting in good faith).

(2) Regulation 38 (intelligibility) of the Food Labelling Regulations 1996⁽¹³⁾ shall apply to any name, description, information or other wording with which water is required or permitted by these Regulations to be marked or labelled, at 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).

Revocations

23.—(1) The Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations 1999 are revoked.

(2) The Natural Mineral Water, Spring Water and Bottled Drinking Water (Amendment) (Scotland) Regulations 2003⁽¹⁴⁾ and the Natural Mineral Water, Spring Water and Bottled Drinking Water Amendment (Scotland) Regulations 2004⁽¹⁵⁾ are revoked.

St Andrew’s House,
Edinburgh
20th September 2007

SHONA ROBISON
Authorised to sign by the Scottish Ministers

⁽¹³⁾ S.I. 1996/1499; to which there are amendments not relevant to these Regulations.

⁽¹⁴⁾ S.S.I. 2003/139.

⁽¹⁵⁾ S.S.I. 2004/132.