

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*

<sup>M1M2</sup>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 and now vested in him .

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 <sup>M3</sup> there has been open and transparent public consultation during the preparation and evaluation of these Regulations.

**Modifications etc. (not altering text)**

- C1** Regulations applied in part (with modifications) (1.10.2023) by [The Windsor Framework \(Retail Movement Scheme: Public Health, Marketing and Organic Product Standards and Miscellaneous Provisions\) Regulations 2023 \(S.I. 2023/959\)](#), regs. 1(2), 4(b), **Sch. 2** (with regs. 7, 8)

**Marginal Citations**

- M1** 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](#).
- M2** 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.

**M3** 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;

[<sup>F1</sup>“advertisement” means a representation in any form in connection with a trade or business in order to promote the supply of goods and “advertise” is to be construed accordingly;]

<sup>F2</sup> .....

[<sup>F3</sup>“authorised activated alumina treatment” means—

- (a) a treatment of natural mineral water and spring water with activated alumina in order to remove fluoride, that has been authorised in accordance with Schedule 1A; or
- (b) [<sup>F4</sup> in the case of natural mineral water or spring water brought into England from Scotland or Wales, a treatment which complies with Articles 1 to 3 of [Commission Regulation \(EU\) No 115/2010](#);
- (c) in the case of natural mineral water or spring water brought into England from Northern Ireland or from an EEA State, a treatment which complies with Articles 1 and 2 of [Commission Regulation \(EU\) No 115/2010](#) as it has effect in EU law;
- (d) in the case of natural mineral water or spring water brought into England from a country outside the UK and the EEA, a treatment which complies with Articles 1 and 2 of [Commission Regulation \(EU\) No 115/2010](#);]]

“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) [<sup>F5</sup>in the case of water brought into England from other parts of the United Kingdom, a treatment that complies with the relevant bottled water legislation that applies in that part of the United Kingdom;]

“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;

<sup>F6</sup> .....

“Directive 98/83” means Council Directive [98/83/EC](#) relating to the quality of water intended for human consumption <sup>M4</sup>;

<sup>F7</sup> .....

[<sup>F8</sup>“Directive 2009/54” means Directive [2009/54/EC](#) of the European Parliament and of the Council on the exploitation and marketing of natural mineral waters (Recast);]

“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;

[<sup>F9</sup>“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 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, and
  - (ii) its original purity; 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 [<sup>F10</sup>first column of any table in Schedule 2 or the first column of the table in Section 1 of Part 9 of Schedule 12];

[<sup>F11</sup>“pesticides” has the meaning given in note 6 of Part B of Annex 1 to Council [Directive 98/83/EC](#) on the quality of water for human consumption;]

[<sup>F11</sup>“polycyclic aromatic hydrocarbons” means—

- (a) benzo(b)fluoranthene,
- (b) benzo(k)fluoranthene,
- (c) benzo(ghi)perylene, and
- (d) indeno(1,2,3-cd)pyrene;]

<sup>F12</sup> .....

[<sup>F13</sup>“Regulation 115/2010” means 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;]

“relevant authority” means the council of a district or London Borough; <sup>F14</sup>...

[<sup>F15</sup>“relevant bottled water legislation” means—

- (a) in relation to Northern Ireland, the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015;
- (b) in relation to Scotland, the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007;
- (c) in relation to Wales, the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015;]

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

[<sup>F16</sup>“third country” means any country, other than the United Kingdom, and includes—

- (a) the Bailiwick of Guernsey;
- (b) the Bailiwick of Jersey;
- (c) the Isle of Man;]

[<sup>F11</sup>“trihalomethanes” means—

- (a) chloroform,
- (b) bromoform,
- (c) dibromochloromethane, and
- (d) bromodichloromethane.

(2) Other expressions used both in these Regulations and in [<sup>F17</sup>Directive 2009/54] 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 [<sup>F18</sup>Directive 2009/54].

(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.]

#### Textual Amendments

- F1** Words in reg. 2(1) substituted (13.12.2014) by [The Food Information Regulations 2014 \(S.I. 2014/1855\)](#), **Sch. 7 para. 52**
- F2** Words in reg. 2(1) omitted (6.4.2011) by virtue of [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2011 \(S.I. 2011/451\)](#), regs. 1, **2(2)** (with regs. 3, 4)
- F3** Words in reg. 2(1) inserted (9.4.2010) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2010 \(S.I. 2010/433\)](#), regs. 1, **3(a)**
- F4** Words in reg. 2(1) substituted (31.12.2020) by [The Food \(Amendment\) \(England\) \(EU Exit\) Regulations 2019 \(S.I. 2019/150\)](#), regs. 1, **3(2)(a)** (as substituted by S.I. 2020/1501, regs. 1(a), **3(2)(a)**); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in reg. 2(1) substituted (31.12.2020) by [The Food \(Amendment\) \(England\) \(EU Exit\) Regulations 2019 \(S.I. 2019/150\)](#), regs. 1, **3(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in reg. 2(1) repealed (16.7.2009) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2009 \(S.I. 2009/1598\)](#), regs. 1, **3(a)**
- F7** Words in reg. 2(1) omitted (31.12.2020) by virtue of [The Food \(Amendment\) \(England\) \(EU Exit\) Regulations 2019 \(S.I. 2019/150\)](#), regs. 1, **3(2)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in reg. 2(1) inserted (16.7.2009) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2009 \(S.I. 2009/1598\)](#), regs. 1, **3(b)**

- F9** Words in reg. 2(1) substituted (16.7.2009) by The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2009 (S.I. 2009/1598), regs. 1, **3(c)**
- F10** Words in reg. 2(1) substituted (6.4.2018) by The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2018 (S.I. 2018/352), regs. 1(1), **3(b)**
- F11** Words in reg. 2(1) inserted (6.4.2018) by The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2018 (S.I. 2018/352), regs. 1(1), **3(a)**
- F12** Words in reg. 2(1) omitted (6.4.2018) by virtue of The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2018 (S.I. 2018/352), regs. 1(1), **3(c)**
- F13** Words in reg. 2(1) inserted (9.4.2010) by The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2010 (S.I. 2010/433), regs. 1, **3(b)**
- F14** Word in reg. 2(1) omitted (6.4.2018) by virtue of The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2018 (S.I. 2018/352), regs. 1(1), **3(d)**
- F15** Words in reg. 2(1) inserted (31.12.2020) by The Food (Amendment) (England) (EU Exit) Regulations 2019 (S.I. 2019/150), regs. 1, **3(2)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in reg. 2(1) inserted (31.12.2020) by The Food (Amendment) (England) (EU Exit) Regulations 2019 (S.I. 2019/150), regs. 1, **3(2)(e)**; 2020 c. 1, Sch. 5 para. 1(1)
- F17** Words in reg. 2(2) substituted (16.7.2009) by The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2009 (S.I. 2009/1598), regs. 1, **4(1)(2)**
- F18** Words in reg. 2(3) substituted (16.7.2009) by The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2009 (S.I. 2009/1598), regs. 1, **4(1)(2)**

#### Marginal Citations

- M4** OJ No. L330, 5.12.98, p.32.

#### Exemptions

- 3.—(1) These Regulations do not apply to any water which —
- [<sup>F19</sup>(a) is a medicinal product within the meaning of [<sup>F20</sup> regulation 2(1) of the Human Medicines Regulations 2012 ];]
- (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
- [<sup>F21</sup>(d) is a natural mineral water intended for—
- (i) movement into Northern Ireland;
- (ii) export to a third country.]
- (2) These Regulations do not apply to packaged ice portions intended for use in cooling food.

#### Textual Amendments

- F19** Reg. 3(1)(a) substituted (6.4.2018) by The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2018 (S.I. 2018/352), regs. 1(1), **4**
- F20** Words in reg. 3(1)(a) substituted (31.12.2020) by The Human Medicines (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/775), reg. 1, **Sch. 8 para. 9**; 2020 c. 1, Sch. 5 para. 1(1)
- F21** Reg. 3(1)(d) substituted (31.12.2020) by The Food (Amendment) (England) (EU Exit) Regulations 2019 (S.I. 2019/150), regs. 1, **3(3)** (as substituted by S.I. 2020/1501, regs. 1(a), **3(2)(b)**); 2020 c. 1, **Sch. 5 para. 1(1)**

<sup>F22</sup>**Additional language**

**3A.** Nothing in these Regulations prevents a bottle being marked or labelled with any other language in addition to English.]

**Textual Amendments**  
**F22** Reg. 3A inserted (6.4.2011) by The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2011 (S.I. 2011/451), regs. 1, **2(4)** (with regs. 3, 4)

**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 [<sup>F23</sup>under the relevant bottled water legislation] by a responsible authority of that part of the United Kingdom;
  - <sup>F24</sup>(c) .....
  - (d) in the case of water extracted from the ground in a [<sup>F25</sup>third country] —
    - (i) it is recognised by [<sup>F26</sup>the Secretary of State], in accordance with Part 2 of Schedule 3, or
    - <sup>F27</sup>(ii) it has equivalent recognition in Northern Ireland granted by the Agency in accordance with regulation 4(2)(d)(i) of, and Part 2 of Schedule 1 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015, or
    - (iii) it has equivalent recognition in Scotland granted by the Agency in accordance with regulation 4(1)(d)(i) of, and Part 2 of Schedule 3 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007, or
    - (iv) it has equivalent recognition in Wales granted by the Agency in accordance with regulation 4(2)(d)(i) of, and Part 2 of Schedule 1 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015.]
- (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, [<sup>F26</sup>the Secretary of State], 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) [F26the Secretary of State] 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 [F26the Secretary of  
State] for a review of that decision.

(4) Upon an application for review of a decision being made under paragraph (3), [F26the Secretary  
of State] 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 [F26the Secretary of State], as appropriate, to have that recognition withdrawn.

(6) Where the relevant authority—

- (a) grants, restores or withdraws recognition, it shall immediately inform [F26the Secretary of  
State] 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  
[F26the Secretary of State] of that change; or
- (c) is directed by [F26the Secretary of State] 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<sup>M5</sup> or the Natural Mineral Water, Spring Water and Bottled Drinking Water  
Regulations 1999<sup>M6</sup> 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 [F28third country], be treated as if it  
were recognition granted by [F26the Secretary of State] under paragraph (1)(d)(i); and

<sup>F29</sup>(8) .....

(9) Schedule 5 shall have effect for the purposes specified for it in Schedule 3.

#### Textual Amendments

- F23** Words in reg. 4(1)(b) substituted (31.12.2020) by [The Food \(Amendment\) \(England\) \(EU Exit\) Regulations 2019 \(S.I. 2019/150\)](#), regs. 1, **3(4)(a)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F24** Reg. 4(1)(c) omitted (31.12.2020) by virtue of [The Food \(Amendment\) \(England\) \(EU Exit\) Regulations 2019 \(S.I. 2019/150\)](#), regs. 1, **3(4)(a)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F25** Words in reg. 4(1)(d) substituted (31.12.2020) by [The Food \(Amendment\) \(England\) \(EU Exit\) Regulations 2019 \(S.I. 2019/150\)](#), regs. 1, **3(4)(a)(iii)(aa)**; 2020 c. 1, Sch. 5 para. 1(1)
- F26** Words in reg. 4 substituted (6.4.2011) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2011 \(S.I. 2011/451\)](#), regs. 1, **2(5)(a)** (with regs. 3, 4)
- F27** Reg. 4(1)(d)(ii)-(iv) substituted for reg. 4(1)(d)(ii) (31.12.2020) by [The Food \(Amendment\) \(England\) \(EU Exit\) Regulations 2019 \(S.I. 2019/150\)](#), regs. 1, **3(4)(a)(iii)(bb)** (as substituted by S.I. 2020/1501, regs. 1(a), **3(2)(e)**); 2020 c. 1, **Sch. 5 para. 1(1)**

- F28** Words in reg. 4(7)(b) substituted (31.12.2020) by [The Food \(Amendment\) \(England\) \(EU Exit\) Regulations 2019 \(S.I. 2019/150\)](#), regs. 1, **3(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F29** Reg. 4(8) omitted (31.12.2020) by virtue of [The Food \(Amendment\) \(England\) \(EU Exit\) Regulations 2019 \(S.I. 2019/150\)](#), regs. 1, **3(4)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Marginal Citations

- M5** [S.I. 1985/71](#), revoked by [S.I. 1999/1540](#).
- M6** [S.I. 1999/1540](#), amended by [S.I. 2000/656](#), [S.I. 2003/666](#) and [S.I. 2004/656](#).

### 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.—<sup>[F30]</sup>(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,
  - (iii) the total or partial elimination of free carbon dioxide by exclusively physical methods, or
  - (iv) an authorised activated alumina treatment; or
- (b) any addition other than the introduction or the re-introduction of carbon dioxide to produce effervescent natural mineral water.]

(2) Paragraph (1) shall not prevent the use of natural mineral water in the manufacture of soft drinks.

#### Textual Amendments

- F30** Reg. 6(1) substituted (9.4.2010) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2010 \(S.I. 2010/433\)](#), regs. 1, **4**

### 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;
- [<sup>F31</sup>(c) any indication, designation, trade mark, brand name, picture or other sign, whether figurative 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
- [<sup>F32</sup>(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 same water table or the same 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.
- [<sup>F33</sup>(4) No person shall advertise any natural mineral water under any indication, designation, trade mark, brand name, picture or other sign, whether figurative 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).

#### Textual Amendments

- F31** Reg. 8(1)(c) substituted (16.7.2009) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2009 \(S.I. 2009/1598\)](#), regs. 1, **5(a)**
- F32** Reg. 8(1)(h) substituted (16.7.2009) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2009 \(S.I. 2009/1598\)](#), regs. 1, **5(b)**
- F33** Reg. 8(4) substituted (16.7.2009) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2009 \(S.I. 2009/1598\)](#), regs. 1, **5(c)**

### 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;
  - <sup>F34</sup>(c) where the revivable total colony count of that water is in excess of that which would result from the normal increase in the bacterial count 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.

#### Textual Amendments

**F34** Reg. 9(2)(c) substituted (16.7.2009) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2009 \(S.I. 2009/1598\)](#), regs. 1, 6

#### <sup>F35</sup>Transitional provision: withdrawal from the EEA and the EU

9A.—(1) The following waters are accredited, that is to say treated for the purposes of these Regulations as if they were natural mineral waters recognised by the Secretary of State under regulation 4(1)(d)(i)—

- (a) established EU recognised natural mineral waters;
- (b) established Icelandic recognised natural mineral waters;
- (c) established Norwegian recognised natural mineral waters.

(2) The accreditation in paragraph (1) continues to have effect in relation to a natural mineral water to which sub-paragraph (a), (b) or (c) of that paragraph applies until the relevant accreditation cessation date.

(3) In the case of an established EU recognised natural mineral water, if the Secretary of State is of the opinion that there is at least one established recognised UK mineral water that is not treated by the responsible authority in at least one member State as a recognised mineral water for the purposes of Directive [2009/54/EC](#), the Secretary of State may notify the Commission that the accreditation provided for in paragraph (1)(a) in relation to established EU recognised natural mineral waters is to cease.

(4) In the case of an established Icelandic recognised natural mineral water, if the Secretary of State is of the opinion that there is at least one established recognised UK mineral water that is not treated as a recognised mineral water in Iceland for the purposes of Directive 2009/54/EC, the Secretary of State may notify the Icelandic Food and Veterinary Authority that the accreditation provided for in paragraph (1)(b) in relation to established Icelandic recognised natural mineral waters is to cease.

(5) In the case of an established Norwegian recognised natural mineral water, if the Secretary of State is of the opinion that there is at least one established recognised UK mineral water that is not treated in Norway as a recognised mineral water for the purposes of Directive 2009/54/EC, the Secretary of State may notify the Norwegian Food Safety Authority that the accreditation provided for in paragraph (1)(c) in relation to established Norwegian recognised natural mineral waters is to cease.

(6) No notification may be given under paragraph (3), (4) or (5) before the end of the period of six months beginning on the day on which IP completion day falls.

(7) The accreditation cessation date specified in a notification given under paragraph (3), (4) or (5) must be a date that is at least six months after the date on which the notification is given, beginning with the day after the day on which that notification is given.

(8) The Secretary of State must publish a copy of any notification given under paragraph (3), (4) or (5) in such manner as appears appropriate to the Secretary of State in order to bring its effect to the notice of those that the Secretary of State considers likely to be, or representative of those likely to be, affected in England as soon as is reasonably practicable.

(9) The Secretary of State must from time to time publish, in such manner as appears appropriate to the Secretary of State, a list of the names of the established EU, Icelandic and Norwegian recognised natural mineral waters that are treated as accredited natural mineral waters under paragraph (1) (“the paragraph 9 list”).

(10) Where a notification is given under paragraph (3), (4) or (5), the Secretary of State must update the paragraph 9 list as soon as reasonably practicable after the accreditation cessation date specified in the notification.

(11) The paragraph 9 list is to be treated as conclusive evidence that the waters are accredited natural mineral waters for the purposes of these Regulations.

(12) In this regulation—

“accreditation cessation date” means the cessation date as notified by the Secretary of State under paragraph (3), (4) or (5);

“Directive 2009/54/EC” means Directive 2009/54/EC as incorporated into the EEA agreement, and as it had effect, immediately before IP completion day;

“established EU recognised natural mineral water” means—

(a) a natural mineral water extracted from the ground in any member State—

- (i) that immediately before IP completion day had the status of a recognised natural mineral water for the purposes of Directive 2009/54/EC, and
- (ii) for which that recognition remains in force;

(b) a natural mineral water extracted from the ground in a third country—

- (i) that immediately before IP completion day had the status of a recognised natural mineral waters for the purposes of Directive 2009/54/EC, having been recognised by any member State as a natural mineral water for the purpose of Directive 2009/54/EC based on a certificate (“Article 1(2) certificate”) of the type referred to in the second subparagraph of Article 1(2) of Directive 2009/54/EC issued by the responsible authority in the country of extraction,

- (ii) for which that recognition remains in force, and
- (iii) for which the Article 1(2) certificate remains valid;

“established Icelandic recognised natural mineral water” means a natural mineral waters extracted from the ground in Iceland—

- (a) that immediately before IP completion day had the status of a recognised natural mineral waters for the purposes of Directive [2009/54/EC](#), and
- (b) for which that recognition remains in force;

“established Norwegian recognised natural mineral water” means a natural mineral water extracted from the ground in Norway—

- (a) that immediately before IP completion day had the status of a recognised natural mineral water for the purpose of Directive [2009/54/EC](#), and
- (b) for which that recognition remains in force;

“established recognised UK natural mineral water” means a natural mineral water extracted from the ground in the United Kingdom—

- (a) that immediately before IP completion day had the status of a recognised natural mineral water for the purposes of Directive [2009/54/EC](#), and
- (b) for which that recognition remains in force;

“member State” means a member State of the EU as constituted immediately after IP completion day;

“third country” has the same meaning as in Directive [2009/54/EC](#) as it had effect immediately before IP completion day.]

#### Textual Amendments

**F35** Reg. 9A inserted (31.12.2020) by [The Environment, Food and Rural Affairs \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/778\)](#), regs. 1, 2 (as amended by S.I. 2020/1501, regs. 1(a), **5(2)**); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

## 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.

[<sup>F36</sup>(2A) No person shall cause any water which has been treated with activated alumina for removal of fluoride to be bottled in a bottle marked or labelled “spring water”, unless that treatment is an authorised activated alumina treatment.]

(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.

#### Textual Amendments

**F36** Reg. 10(2A) inserted (9.4.2010) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2010 \(S.I. 2010/433\)](#), regs. 1, 5

### 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 subparagraphs (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 <sup>F37</sup>... 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 <sup>F38</sup>... 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”.

#### Textual Amendments

- F37** Words in [reg. 14\(a\)](#) omitted (6.4.2018) by virtue of [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2018 \(S.I. 2018/352\)](#), regs. 1(1), [5](#)
- F38** Words in [reg. 14\(b\)](#) omitted (6.4.2018) by virtue of [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2018 \(S.I. 2018/352\)](#), regs. 1(1), [5](#)

#### 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.—<sup>F39</sup>(1) Each relevant authority shall, within its area carry out periodic checks on any water which has been recognised as a natural mineral water to ensure that—

- (a) the composition, temperature and other essential characteristics of the water remain stable within the limits of natural fluctuation;
- (b) without prejudice to sub-paragraph (a), the composition, temperature and other essential characteristics of the water are unaffected by any variations in the rate of flow;
- (c) 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
- (d) 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.

[<sup>F40</sup>(3) Each relevant authority shall, within its area, carry out periodic checks on any authorised activated alumina treatment in respect of which the authorisation was granted by it in accordance with Schedule 1A, to ensure that the requirements of that Schedule continue to be satisfied.

(4) Each food authority shall, within its area, execute and enforce these Regulations.

(5) For the purposes of carrying out the function referred to in paragraph (4) in relation to bottled drinking water and spring water each food authority shall—

- (a) subject to paragraph (6), carry out regular monitoring of the quality of any such water[<sup>F41</sup>, including checks to determine] whether—
  - <sup>F42</sup>(i) .....
  - <sup>F43</sup>(ii) .....
  - <sup>F43</sup>(iii) .....
  - <sup>F43</sup>(iv) .....
  - (v) in the case where disinfection forms part of the preparation or distribution of the water concerned, the disinfection treatment applied is efficient and any contamination from disinfection by-products is kept as low as is possible without compromising the disinfection;

<sup>F44</sup>(b) .....

<sup>F44</sup>(c) .....

<sup>F44</sup>(d) .....

(6) The checks and monitoring referred to in paragraph (5)(a) <sup>F45</sup>... shall be carried out using samples representative of the quality of the water concerned consumed throughout the year in which the samples are taken.]

**Textual Amendments**

- F39** Reg. 16(1) substituted (16.7.2009) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2009 \(S.I. 2009/1598\)](#), regs. 1, 7
- F40** Reg. 16(3)-(6) substituted for reg. 16(3) (9.4.2010) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2010 \(S.I. 2010/433\)](#), regs. 1, 6
- F41** Words in reg. 16(5)(a) substituted (6.4.2018) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2018 \(S.I. 2018/352\)](#), regs. 1(1), **6(2)(a)(i)**
- F42** Reg. 16(5)(a)(i) omitted (31.12.2020) by virtue of [The Food \(Amendment\) \(England\) \(EU Exit\) Regulations 2019 \(S.I. 2019/150\)](#), regs. 1, **3(5)**; 2020 c. 1, **Sch. 5 para. 1(1)**



- F43** Reg. 16(5)(a)(ii)-(iv) omitted (6.4.2018) by virtue of [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2018 \(S.I. 2018/352\)](#), regs. 1(1), **6(2)(a)(iii)**
- F44** Reg. 16(5)(b)-(d) omitted (6.4.2018) by virtue of [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2018 \(S.I. 2018/352\)](#), regs. 1(1), **6(2)(b)**
- F45** Words in reg. 16(6) omitted (6.4.2018) by virtue of [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2018 \(S.I. 2018/352\)](#), regs. 1(1), **6(3)**

[<sup>F46</sup>**Monitoring of water bottled and labelled as “spring water” and bottled drinking water**

**16A.** Each food authority must, in accordance with Schedule 12, maintain a monitoring programme for, and monitor, any water that—

- (a) is water to which paragraph 3 of Schedule 12 applies (water bottled and labelled as “spring water” and bottled drinking water), and
- (b) is being bottled in its area.]

**Textual Amendments**

- F46** Reg. 16A inserted (6.4.2018) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2018 \(S.I. 2018/352\)](#), regs. 1(1), **7**

**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**

<sup>F47</sup>19. ....

**Textual Amendments**

**F47** Reg. 19 omitted (6.4.2018) by virtue of The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2018 (S.I. 2018/352), regs. 1(1), **8(a)**

**Offences and penalties**

**F48** **20.** . . . . .

**Textual Amendments**

**F48** Reg. 20 omitted (6.4.2018) by virtue of The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2018 (S.I. 2018/352), regs. 1(1), **8(b)**

**Defences**

**F49** **21.** . . . . .

**Textual Amendments**

**F49** Reg. 21 omitted (6.4.2018) by virtue of The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2018 (S.I. 2018/352), regs. 1(1), **8(c)**

**Application of the Act**

**[F50** **22.**—(1) The provisions of the Act specified in the first column of the table in Schedule 13 apply for the purposes of these Regulations, with the modifications specified in the second column of that table.

(2) An authorised officer of a food authority must not serve an improvement notice under section 10(1) of the Act, as applied and modified by paragraph (1), as read with Schedule 13, if—

- (a) the improvement notice would relate to water bottled and labelled before 6th April 2018, and
- (b) the matters constituting the alleged contravention would not have constituted an offence under these Regulations as they stood immediately before 6th April 2018.]

**Textual Amendments**

**F50** Reg. 22 substituted (6.4.2018) by The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) (Amendment) Regulations 2018 (S.I. 2018/352), regs. 1(1), **9**

**Revocation**

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

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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 (England) Regulations 2007. (See end of Document for details)

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Signed by authority of the Secretary of State for Health.

Department of Health

*Dawn Primarolo*  
Minister of State,

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.

<i>Treatment residue</i>	<i>Maximum limit (µg/l)</i>
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.

**Changes to legislation:** There are currently no known outstanding effects for the *The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007*. (See end of Document for details)

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 [<sup>F51</sup>the Secretary of State] for a review of that decision.

#### Textual Amendments

**F51** Words in Sch. 1 para. 9 substituted (6.4.2011) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2011 \(S.I. 2011/451\)](#), regs. 1, **2(5)(b)** (with regs. 3, 4)

10. Upon receiving the application for review, [<sup>F52</sup>the Secretary of State] shall make such inquiry into the matter as may seem to [<sup>F52</sup>the Secretary of State] 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.

#### Textual Amendments

**F52** Words in Sch. 1 para. 10 substituted (6.4.2011) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2011 \(S.I. 2011/451\)](#), regs. 1, **2(5)(c)** (with regs. 3, 4)

## [<sup>F53</sup>SCHEDULE 1A

Regulations 2(1) and 16(3)

### CONDITIONS FOR TREATMENT OF NATURAL MINERAL WATER AND SPRING WATER WITH ACTIVATED ALUMINA TO REMOVE FLUORIDE

#### Textual Amendments

**F53** Sch. 1A inserted (9.4.2010) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2010 \(S.I. 2010/433\)](#), regs. 1, 8, **Sch. 1**

1. A person seeking to have authorised a treatment of natural mineral water and spring water with activated alumina in order to remove fluoride shall—

- (a) apply 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.

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

- (a) Articles 1 to 3 of Regulation 115/2010 are complied with in relation to the treatment; and
  - (b) the treatment does not have a disinfectant action.
3. Where the relevant authority decides to authorise a treatment pursuant to paragraph 2, it shall inform the applicant in writing and state the date from which the authorisation for commercial use of the treatment has effect.
4. Where the relevant authority refuses to authorise a treatment pursuant to paragraph 2, it shall inform the applicant in writing, stating its reasons.
5. Where a treatment has been authorised pursuant to paragraph 2, the person carrying out the treatment must, for the purpose of enabling the relevant authority to assess whether the conditions in paragraph 2 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.
6. If the relevant authority is satisfied that the conditions specified in paragraph 2 are no longer fulfilled, it may withdraw authorisation of a treatment by giving the person carrying out the treatment a written notice stating the grounds for withdrawal.
7. Where the relevant authority has informed an applicant under paragraph 4 of its refusal to authorise a treatment under paragraph 2 or withdraws authorisation of a treatment under paragraph 6, the person who wishes to carry out the treatment may apply to [F54the Secretary of State] for a review of that decision.

**Textual Amendments**

**F54** Words in Sch. 1A para. 7 substituted (6.4.2011) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2011 \(S.I. 2011/451\)](#), regs. 1, **2(5)(d)** (with regs. 3, 4)

8. Upon receiving the application for review, [F55the Secretary of State] shall —
- (a) make such enquiry into the matter as may seem to [F55the Secretary of State] to be appropriate; and
  - (b) having considered the results of that enquiry and any relevant facts elicited by it, either confirm the decision or direct the relevant authority to grant or restore, as appropriate, authorisation of the treatment in respect of which the application was made.

**Textual Amendments**

**F55** Words in Sch. 1A para. 8 substituted (6.4.2011) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2011 \(S.I. 2011/451\)](#), regs. 1, **2(5)(e)** (with regs. 3, 4)

9. In the case of such a direction, the relevant authority shall comply with the direction.]

## [F56] SCHEDULE 2

Regulations 10 and 13

## Requirements for water bottled and labelled as “spring water” and bottled drinking water

**Textual Amendments**

**F56** Sch. 2 substituted (6.4.2018) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2018 \(S.I. 2018/352\)](#), reg. 1(1), **Sch. 1**

## PART 1

Requirements for water bottled and labelled  
as “spring water” and bottled drinking water

Water bottled and labelled as “spring water” and bottled drinking water meet the requirements of this Schedule if—

- (a) in relation to each of the parameters specified in the first column of the tables in Part 2 (microbiological parameters) and Part 3 (chemical parameters), it does not contain the parameter at a concentration or value exceeding the concentration or value specified for that parameter in the second column of the relevant table—
  - (i) as measured by reference to the unit of measurement specified in the third column of the relevant table, and
  - (ii) as read, in the case of the table in Part 3, with any further provision relating to the parameter, or concentration or value for the parameter, specified in the fourth column of the table,
- (b) in relation to each of the parameters specified in the first column of the table in Part 4 (radioactive substances), it does not contain the parameter at an activity concentration or value exceeding the activity concentration or value specified for that parameter in the second column of the relevant table as measured by reference to the unit of measurement specified in the third column of the table,
- (c) it does not contain (disregarding any parameters covered by sub-paragraphs (a) and (b)), any micro-organism, parasite or any other property, element or substance at a concentration or value that would constitute a potential danger to human health, and
- (d) it does not contain any substance (whether or not a parameter) at a concentration or value that, 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.

## PART 2

## Parametric values for microbiological parameters

<i>Parameter</i>	<i>Parametric value</i>	<i>Unit of measurement</i>
<i>Escherichia coli</i>	0/250 ml	number/250 ml
<i>(E. coli)</i>		
Enterococci	0/250 ml	number/250 ml



**Changes to legislation:** There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007. (See end of Document for details)

<i>Parameter</i>	<i>Parametric value</i>	<i>Unit of measurement</i>
<i>Pseudomonas aeruginosa</i>	0/250 ml	number/250ml
Colony count 22°C	100/ml	number/ml
Colony count 37°C	20/ml	number/ml

### PART 3

#### Parametric concentrations for chemical parameters

<i>Parameter</i>	<i>Parametric concentration</i>	<i>Unit of measurement</i>	<i>of Further provision</i>
Acrylamide	0.10	µg/l	
Antimony	5.0	µg Sb/l	
Arsenic	10	µg As/l	
Benzene	1.0	µg/l	
Benzo(a)pyrene	0.010	µg/l	
Boron	1.0	mg/l	
Bromate	10	µg/l BrO <sub>3</sub> /l	
Cadmium	5.0	µg Cd/l	
Chromium	50	µg Cr/l	
Copper	2.0	mg Cu/l	
Cyanide	50	µg CN/l	
1,2-dichloroethane	3.0	µg/l	
Epichlorohydrin	0.10	µg/l	
Fluoride	1.5	mg F/l	
Lead	10	µg Pb/l	
Mercury	1.0	µg Hg/l	
Nickel	20	µg Ni/l	
Nitrate	50	mg NO <sub>3</sub> /l	The concentration (mg/l) of nitrate divided by 50 added to the concentration (mg/l) of nitrite divided by 3 must not exceed 1.
Nitrite	0.50	mg NO <sub>2</sub> /l	The concentration (mg/l) of nitrate divided by 50 added to the concentration (mg/l) of nitrite divided by 3 must not exceed 1.
Pesticides—			Only those pesticides which are likely to be present in a given water must be monitored.

**Changes to legislation:** There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007. (See end of Document for details)

<i>Parameter</i>	<i>Parametric concentration</i>	<i>Unit of measurement</i>	<i>Further provision</i>
(a) individual substances—			
(i) in the case of aldrin, dieldrin, heptachlor and heptachlor epoxide	0.030	µg/l	The parametric concentration applies to each individual pesticide.
(ii) in the case of other individual pesticides	0.10	µg/l	The parametric concentration applies to each individual pesticide.
(b) total pesticides	0.50	µg/l	The concentration for “total pesticides” refers to the total sum of the concentrations of all the individual pesticides detected and quantified in the monitoring procedure.
Polycyclic aromatic hydrocarbons	0.10	µg/l	The parametric concentration applies to the total sum of the concentrations of all the individual polycyclic aromatic hydrocarbons detected and quantified in the monitoring procedure.
Selenium	10	µg Se/l	
Tetrachloroethene and trichloroethene	10	µg/l	The parametric concentration applies to the total sum of the concentrations of both of the parameters specified in the first column.
Trichloromethanes	100	µg/l	The parametric concentration applies to the total sum of the concentrations of all the individual trichloromethanes detected and quantified in the monitoring procedure.
Vinyl chloride	0.50	µg/l	

## PART 4

### Parametric activity concentrations for radon and tritium and parametric value for indicative dose

<i>Parameter</i>	<i>Parametric activity concentration or value</i>	<i>Unit of Measurement</i>
Radon	100	Bq/l
Tritium	100	Bq/l

<i>Parameter</i>	<i>Parametric activity concentration or value</i>	<i>Unit of Measurement</i>
Indicative Dose	0.10	mSv]

### SCHEDULE 3

Regulations 4(1)(a) and (d)(i),(2)(a) and (c), (8) and (9) and 16(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 <sup>F57</sup>Third Country]

#### Textual Amendments

**F57** Words in Sch. 3 Pt. 2 heading substituted (31.12.2020) by [The Food \(Amendment\) \(England\) \(EU Exit\) Regulations 2019 \(S.I. 2019/150\)](#), regs. 1, **3(6)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

1. A person seeking to have a water which is extracted from the ground in a <sup>F58</sup>third country] recognised as a natural mineral water for the purposes of Article 1 shall make application in writing to <sup>F59</sup>the Secretary of State], giving the particulars set out in paragraph 2.

#### Textual Amendments

**F58** Words in Sch. 3 Pt. 2 para. 1 substituted (31.12.2020) by [The Food \(Amendment\) \(England\) \(EU Exit\) Regulations 2019 \(S.I. 2019/150\)](#), regs. 1, **3(6)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

**F59** Words in Sch. 3 Pt. 2 para. 1 substituted (6.4.2011) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2011 \(S.I. 2011/451\)](#), regs. 1, **5(f)** (with regs. 3, 4)

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. <sup>F60</sup>The Secretary of State] 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.

**Textual Amendments**

**F60** Words in Sch. 3 Pt. 2 para. 4 substituted (6.4.2011) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2011 \(S.I. 2011/451\)](#), regs. 1, **2(6)** (with regs. 3, 4)

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. [<sup>F61</sup>The Secretary of State] 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.

**Textual Amendments**

**F61** Words in Sch. 3 para. 6 substituted (6.4.2011) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2011 \(S.I. 2011/451\)](#), regs. 1, **2(6)** (with regs. 3, 4)

## 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;

**Changes to legislation:** There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007. (See end of Document for details)

- (k) where appropriate, the relative isotope levels of the constituent elements of water, oxygen ( $^{16}\text{O}$  —  $^{18}\text{O}$ ) 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) and 16(1)(a)(iv) and paragraph 1(b) of Schedule 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.

[<sup>F62</sup>**4.** The conditions of exploitation, particularly the washing and bottling equipment, 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 water.]

#### Textual Amendments

**F62** Sch. 4 para. 4 substituted (16.7.2009) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2009 \(S.I. 2009/1598\)](#), regs. 1, **8(a)**

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 17<sup>th</sup> July 1980 water from that spring was so transported.

[<sup>F63</sup>(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 13th December 1996, water from that spring was so transported.]

#### Textual Amendments

**F63** Sch. 4 para. 5(3) substituted (16.7.2009) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2009 \(S.I. 2009/1598\)](#), regs. 1, **8(b)**

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.

[<sup>F64</sup>**8.** Both at source and during its marketing, 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.]

#### Textual Amendments

**F64** Sch. 4 para. 8 substituted (16.7.2009) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2009 \(S.I. 2009/1598\)](#), regs. 1, **8(c)**

## SCHEDULE 5

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

## Particulars of anions, cations, non-ionised compounds and trace elements

<i>Anions</i>		<i>Unit of measurement</i>
Borate $\text{BO}_3^-$		mg/l
Carbonate $\text{CO}_3^{2-}$		mg/l
Chloride $\text{Cl}^-$		mg/l
Fluoride $\text{F}^-$		mg/l
Hydrogen Carbonate $\text{HCO}_3^-$		mg/l
Nitrate $\text{NO}_3^-$		mg/l
Nitrite $\text{NO}_2^-$		mg/l
Phosphate $\text{PO}_4^{3-}$		mg/l
Silicate $\text{SiO}_2$		mg/l
Sulphate $\text{SO}_4^{2-}$		mg/l
Sulphide $\text{S}^{2-}$		mg/l
<i>Cations</i>		<i>Unit of measurement</i>
Aluminium Al		mg/l
Ammonium $\text{NH}_4^+$		mg/l
Calcium Ca		mg/l
Magnesium Mg		mg/l
Potassium K		mg/l
Sodium Na		mg/l
<i>Non-ionised compounds</i>		<i>Unit of measurement</i>
Total organic carbon C		mg/l
Free carbon dioxide $\text{CO}_2$		mg/l
Silica $\text{SiO}_2$		mg/l
<i>Trace elements</i>		<i>Unit of measurement</i>
Barium Ba		$\mu\text{g/l}$
Bromine (total) Br		$\mu\text{g/l}$
Cobalt Co		$\mu\text{g/l}$
Copper Cu		$\mu\text{g/l}$
Iodine (total) I		$\mu\text{g/l}$



**Changes to legislation:** There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007. (See end of Document for details)

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

Maximum limits for constituents of natural mineral waters

<i>Constituents</i>	<i>Maximum limits (mg/l)</i>
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
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

<i>Constituent</i>	<i>Accuracy of parametric value in %</i>	<i>Precision of parametric value</i>	<i>Detection limit of parametric value in %</i>
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

<sup>F65</sup>SCHEDULE 9

Regulation 16(5)(a)(iii), (b)(ii) and (d)

PROPERTIES, ELEMENTS, SUBSTANCES AND ORGANISMS, NOT BEING PARAMETERS, WHOSE CONCENTRATION OR VALUE IN BOTTLED DRINKING WATER AND SPRING WATER MUST BE DETERMINED BY AUDIT MONITORING

**Textual Amendments**

**F65** Sch. 9 omitted (6.4.2018) by virtue of [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2018 \(S.I. 2018/352\)](#), regs. 1(1), **11(a)**

**Changes to legislation:** There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007. (See end of Document for details)

F66 SCHEDULE 10

Regulation 16(5)(b) (i)

PARAMETERS , PROPERTIES, ELEMENTS, SUBSTANCES AND ORGANISMS  
IN RELATION TO WHICH CHECK MONITORING MUST BE CARRIED OUT

**Textual Amendments**

**F66** Sch. 10 omitted (6.4.2018) by virtue of [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2018 \(S.I. 2018/352\)](#), regs. 1(1), **11(b)**

F67 SCHEDULE 11

Regulation 16(5)(c)

MINIMUM FREQUENCIES FOR SAMPLING AND ANALYSIS  
OF SPRING WATER AND BOTTLED DRINKING WATER

**Textual Amendments**

**F67** Sch. 11 omitted (6.4.2018) by virtue of [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2018 \(S.I. 2018/352\)](#), regs. 1(1), **11(c)**

[F68] SCHEDULE 12

Regulation 16A

Monitoring of water bottled and labelled as “spring water” and bottled drinking water

**Textual Amendments**

**F68** Sch. 12 inserted (6.4.2018) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2018 \(S.I. 2018/352\)](#), reg. 1(1), **Sch. 2**

PART 1

Interpretation

**General**

1. In this Schedule—

“average” means mean average;

“the BSI” means the British Standards Institution;

“delegate” means a person to whom a task has been delegated by a food authority under paragraph 14, as read with paragraph 56, or a person to whom a food authority intends to delegate such a task (as the case may be);

**Changes to legislation:** There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007. (See end of Document for details)

“indicative dose” means the committed effective dose for one year of ingestion resulting from all the radionuclides (whether of natural or artificial origin) whose presence has been detected in a supply of water intended for human consumption but excluding potassium-40, radon, tritium and short-lived radon decay products;

“limit of quantification” has the meaning given in Article 2(2) of Commission [Directive 2009/90/EC](#) laying down, pursuant to [Directive 2000/60/EC](#) of the European Parliament and of the Council, technical specifications for chemical analysis and monitoring of water status;

“paragraph 45 determination” means a determination under paragraph 45 relating to indicative dose”;

“parametric concentration”, in relation to a parameter specified in the first column of the table in Part 3 of Schedule 2 or a parameter specified in the first column of the table in Section 1 of Part 9 for which a maximum concentration (as opposed to a value) is set, means the maximum concentration given for the parameter in the second column of the relevant table, as measured by reference to the unit of measurement specified in the third column of the relevant table;

“radioactive substance” has the meaning given in Article 2(2) of Council Directive 2013/51/Euratom laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption;

F69  
...

[<sup>F70</sup>“Regulation (EU) 2017/625” means Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products;]

“sample” means a sample taken under this Schedule;

“trueness” (the systematic error) means the difference between the mean value of the large number of repeated measurements and the true value, as further described in ISO 5725-1:1994(en) entitled “Accuracy (trueness and precision) of measurement methods and results – Part 1: General principles and definitions” published by the International Organization for Standardization on 22nd December 1994, as amended by ISO 5725-1:1994/Cor 1:1998 entitled “Accuracy (trueness and precision) of measurement methods and results – Part 1: General principles and definitions TECHNICAL CORRIGENDUM 1” published by the International Organization for Standardization on 2nd May 1998;

“uncertainty of measurement” means a non-negative parameter characterising the dispersion of the quantity values being attributed to a measure based on the information used;

“year” means, unless a contrary intention appears, a calendar year or such other 12 month period as a food authority may, from time to time, decide to use for the purpose of its monitoring programme.

#### Textual Amendments

- F69** Words in [Sch. 12 para. 1](#) omitted (14.12.2019) by virtue of [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) Regulations 2019 \(S.I. 2019/1488\)](#), regs. 1(1), [24\(a\)\(i\)](#)
- F70** Words in [Sch. 12 para. 1](#) inserted (14.12.2019) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) Regulations 2019 \(S.I. 2019/1488\)](#), regs. 1(1), [24\(a\)\(ii\)](#)

#### Delegated tasks

2. Where a food authority has entered into an arrangement with a person under paragraph 14, as read with Part 10, for a delegate to carry out a task specified in the first column of the table in Section 2 of Part 10 on its behalf, any reference to a food authority in that provision, and in any related

provision in this Schedule, is to be read as a reference to the delegate for the purpose of carrying out that task during the duration of the delegation arrangement.

## PART 2

### General

#### Application

3. This Schedule applies to the monitoring of—
- (a) water that is bottled and labelled as “spring water” by a food business in the course of its business as a bottler of water, whether the bottling of water is its main business or part of its business, and
  - (b) drinking water that is bottled by a food business in the course of its business as a bottler of water, whether the bottling of water is its main business or part of its business.

#### Sampling: general

4.—(1) For the purpose of carrying out its obligations under the provisions specified in sub-paragraph (2), each food authority must take and analyse samples of any water bottled in its area to which this Schedule applies.

- (2) The provisions are—
- (a) paragraph 7(1) (microbiological parameters);
  - (b) paragraph 8(1) (chemical parameters);
  - (c) paragraph 9, as read with paragraphs 23 and 25(1) (radon);
  - (d) paragraph 10, as read with paragraphs 29 and 31(1) (tritium);
  - (e) paragraph 11 (indicative dose), as read with—
    - (i) paragraph 38(2), where a decision is taken by the food authority under paragraph 38(1) to screen water by determining its gross alpha activity to determine whether it is necessary for the authority to carry out a paragraph 45 determination for the water;
    - (ii) paragraph 39(2), where a decision is taken by the food authority under paragraph 39(1) to screen water by determining its gross beta activity to determine whether it is necessary for the authority to carry out a paragraph 45 determination for the water;
    - (iii) paragraph 40(2), where a decision is taken by the food authority under paragraph 40(1) to screen water by analysing one radionuclide to determine whether it is necessary for the authority to carry out a paragraph 45 determination for the water;
    - (iv) paragraph 41(2), where a decision is taken by the food authority under paragraph 41(1) to screen water by analysing more than one radionuclide to determine whether it is necessary for the authority to carry out a paragraph 45 determination for the water;
    - (v) paragraph 43(1) (determination relating to the presence and concentration of radionuclides);
  - (f) paragraph 12, as read with paragraph 50(1) (indicator parameters);
  - (g) paragraph 13 (other parameters not mentioned in this sub-paragraph).
- (3) For the purpose of its sampling obligations under this Schedule, a food authority must take samples of water at the point at which the water is put into a bottle.

### Sampling: non-radioactive substances

5.—(1) In the case of samples of water that a food authority must take and analyse to enable it to discharge its obligations under the provisions specified in [<sup>F71</sup>paragraph 4(2)(a),] (b), (f) and (g), each food authority must take and analyse such samples regularly, having regard to the provisions contained in—

- (a) Article 17(2) 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 (monitoring responsibilities), and

[<sup>F72</sup>(b) Article 9 of Regulation (EU) 2017/625.]

(2) Where, under sub-paragraph (1), a food authority only takes one sample in a year of any water in its area to which this Schedule applies, the authority must take the samples from year to year at intervals that are spread out in such a way—

- (a) to avoid the results, when considered together, giving a potentially distorted picture of the state of the water because the samples have been taken too closely together in time, and
- (b) so that the results, when considered together, provide information about the water that is representative of the quality of the water during the relevant years.

(3) Where, under sub-paragraph (1), a food authority takes more than one sample in a year of any water in its area to which this Schedule applies, the authority must take the samples at intervals that are spread out throughout the year in such a way—

- (a) to avoid the results, when considered together, giving a potentially distorted picture of the state of the water because the samples have been taken too closely together in time, and
- (b) so that the results, when considered together, provide information about the water that is representative of the quality of the water during the course of that year.

#### Textual Amendments

- F71** Words in Sch. 12 para. 5(1) substituted (29.3.2019) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments etc.\) Regulations 2019 \(S.I. 2019/526\)](#), regs. 1(2), **27(2)(a)**
- F72** Sch. 12 para. 5(1)(b) substituted (14.12.2019) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) Regulations 2019 \(S.I. 2019/1488\)](#), regs. 1(1), **24(b)(i)**

### Monitoring: radioactive substances

6. In the case of samples that a food authority must take and analyse to discharge its obligations under the provisions specified in paragraph 4(2)(c) to (e), the samples must—

- (a) be taken and analysed by the food authority no less frequently than provided for in the table in Part 3, unless—
  - (i) a decision is taken by the authority under paragraph 27, 33, 42 or 47 to reduce the minimum frequency at which it must take and analyse samples, in which case the authority must take and analyse samples at the reduced minimum frequency decided by it under the relevant paragraph until such time as it takes a different decision relating to the minimum frequency at which relevant samples must be taken and analysed;
  - (ii) a decision is taken by the authority under paragraph 42 or 47 to stop taking and analysing samples, in which case the authority, in accordance with that decision, is not obliged to take and analyse samples until such time as it takes a different decision

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relating to the minimum frequency at which relevant samples must be taken and analysed;

- (b) be taken, in so far as possible, so that the number of samples are distributed equally in time and (where appropriate) location.

### **Microbiological parameters**

7.—(1) A food authority must monitor the value for each of the parameters specified in the first column of the table in Part 2 of Schedule 2 (microbiological parameters) in any water in its area to which this Schedule applies by analysing a sample of the water to determine whether the value for the parameter in the sample exceeds the value specified for the parameter in the second column of the table, as measured by reference to the unit of measurement specified in the third column of the table.

(2) For the purpose of the determination required by sub-paragraph (1), the food authority must analyse the sample using the method of analysis for the relevant parameter specified in Part 4.

### **Chemical parameters**

8.—(1) A food authority must monitor the concentration of each of the parameters specified in the first column of the table in Part 3 of Schedule 2 (chemical parameters) in any water in its area to which this Schedule applies by analysing a sample of the water to determine whether the concentration of the parameter in the sample exceeds the concentration specified for the relevant parameter in the second column of the table—

- (a) as measured by reference to the unit of measurement specified in the third column of the table, and
- (b) as read, in the case of a parameter for which there is an entry in the fourth column of the table, with the further provision relating to the parameter or parametric concentration specified in that entry.

(2) For the purpose of the determination required by sub-paragraph (1), the food authority must analyse the sample using a method of analysis that complies with Part 5.

(3) But sub-paragraph (2) does not apply, and it is not necessary for a food authority to analyse a sample of water under sub-paragraph (1) to determine whether the concentration of acrylamide, epichlorohydrin or vinyl chloride exceeds the concentration specified for that parameter in the second column of the table in Part 3 of Schedule 2, where—

- (a) the food authority is satisfied that the water, before it is bottled, does not come into contact with a pipe or other construction product that has been constructed using that parameter as a component in its construction, or
- (b) in other cases, the food authority is satisfied, on the basis of a certificate of conformity, declaration of conformity or declaration of performance relating to a pipe or other construction product that the water comes into contact with, or may come into contact with, before being bottled, and any other related information that it considers to be relevant, that any residual monomer concentration of that parameter in the water does not exceed the concentration for that parameter specified in the second column of the table in Part 3 of Schedule 2.

(4) A food authority must not use the uncertainty of measurement percentage specified in the second column of the table in Section 2 of Part 5 (which is concerned with whether a method of analysis complies with minimum performance characteristics) as an additional tolerance when determining whether a parameter specified in the first column of the table in Part 3 of Schedule 2 exceeds the concentration for that parameter specified in the second column of the table in Part 3 of Schedule 2.

- (5) In sub-paragraph (3)(b)—



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“certificate of conformity” means a certificate of conformity issued on or before 30th June 2013—

(a) under the Construction Products Regulations 1991; <sup>F73</sup> ...

(b) <sup>F73</sup> ...

“construction product” has the meaning given in point (1) of Article 2 of Regulation (EU) No 305/2011 of the European Parliament and of the Council laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC;

“declaration of conformity” means a declaration of conformity issued on or before 30th June 2013—

(a) under the Construction Products Regulations 1991; <sup>F74</sup> ...

(b) <sup>F74</sup> ...

“declaration of performance” means a declaration of performance drawn up in accordance with Article 4 of Regulation (EU) No 305/2011 of the European Parliament and of the Council.

#### Textual Amendments

**F73** Words in Sch. 12 para. 8(5) omitted (31.12.2020) by virtue of [The Food \(Amendment\) \(England\) \(EU Exit\) Regulations 2019 \(S.I. 2019/150\)](#), regs. 1, **3(7)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

**F74** Words in Sch. 12 para. 8(5) omitted (31.12.2020) by virtue of [The Food \(Amendment\) \(England\) \(EU Exit\) Regulations 2019 \(S.I. 2019/150\)](#), regs. 1, **3(7)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

#### Radon

**9.** A food authority must monitor the level of radon in any water in its area to which this Schedule applies in accordance with Part 6.

#### Tritium

**10.** A food authority must monitor the level of tritium in any water in its area to which this Schedule applies in accordance with Part 7.

#### Indicative dose

**11.** A food authority must monitor the level of the indicative dose for any water in its area to which this Schedule applies in accordance with Part 8.

#### Indicator parameters

**12.** A food authority must monitor the concentration or value (as the case may be) of each of the parameters specified in the first column of the table in Section 1 of Part 9 (indicator parameters) in any water in its area to which this Schedule applies in accordance with Part 9.

#### Other parameters

**13.** Where a food authority believes, or has reason to suspect, that a property, element, substance or organism that is not specified in any of the tables in Schedule 2 or the table in Section 1 of Part 9, may be present in any water in its area to which this Schedule applies at any concentration, or in any number, that may constitute a potential danger to human health, it must take and analyse samples of the water, on a case by case basis, to determine whether that property, element, substance

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or organism is present in the water and whether it is present in the water at any concentration, or in any number, that may constitute a potential danger to human health.

### Delegation of tasks

**14.** To enable a food authority to discharge its functions under this Schedule, a food authority may from time to time enter into an arrangement with another person under which the food authority delegates specified tasks to the delegate to carry out on behalf of the food authority on condition that—

(a) such arrangement is in accordance with—

(i) Part 10, and

[<sup>F75</sup>(ii) Article 29 of Regulation (EU) 2017/625, and]

[<sup>F76</sup>(b) the food authority notifies the Secretary of State, in advance of the proposed delegation, of the tasks that are being delegated to a delegated body.]

### Textual Amendments

**F75** Sch. 12 para. 14(a)(ii) substituted (14.12.2019) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) Regulations 2019 \(S.I. 2019/1488\)](#), regs. 1(1), **24(b)(ii)(aa)**

**F76** Sch. 12 para. 14(b) substituted (14.12.2019) by [The Official Controls \(Animals, Feed and Food, Plant Health Fees etc.\) Regulations 2019 \(S.I. 2019/1488\)](#), regs. 1(1), **24(b)(ii)(bb)**

### Quality management practices

**15.—(1)** A food authority must not analyse a sample taken for the purpose of carrying out its monitoring obligations under regulation 16A, as read with this Schedule, unless quality management practices that comply with BS EN ISO/IEC 17025:2017 entitled “General requirements for the competence of testing and calibration laboratories” (ISBN 978 0 580 88466 5) published by the BSI on 31st December 2017, or another equivalent standard accepted at international level, are being complied with at the laboratory in which the sample is analysed.

(2) But, in the case of the analysis of a sample for the purposes of the monitoring obligations under the provisions specified in sub-paragraph (3), it is sufficient if the laboratory at which the sample is analysed has a system of analytical quality control in place that is checked by the United Kingdom Accreditation Service from time to time.

(3) The provisions are those in—

(a) paragraph 9, as read with Part 6 (radon),

(b) paragraph 10, as read with Part 7 (tritium), and

(c) paragraph 11, as read with Part 8 (indicative dose).

### Validation and documentation

**16.—(1)** A food authority must ensure that any analysis that it carries out for the purpose its monitoring obligations under regulation 16A, as read with this Schedule, is validated and documented in accordance with BS EN ISO/IEC 17025:2017 entitled “General requirements for the competence of testing and calibration laboratories” (ISBN 978 0 580 88466 5) published by the BSI on 31st December 2017 or another equivalent standard accepted at international level.

(2) But, in the case of the analysis of a sample for the purpose of the monitoring obligations under the provisions specified in sub-paragraph (3), it is sufficient if the laboratory at which the sample is

analysed has a system of analytical quality control in place that is checked by the United Kingdom Accreditation Service from time to time.

- (3) The provisions are those in—
- (a) paragraph 9, as read with Part 6 (radon),
  - (b) paragraph 10, as read with Part 7 (tritium), and
  - (c) paragraph 11, as read with Part 8 (indicative dose).

## PART 3

### Minimum sampling and analyses frequencies for monitoring radioactive substances

<i>Average volume of water bottled each day within a supply zone m<sup>3</sup></i>	<i>Number of samples per year</i>
1,000 or less	1
More than 1,000 but less than or equal to 10,000	1 Plus 1 for each 3,300m <sup>3</sup> of the average volume produced each day Plus 1 for any remaining part of the average volume produced each day that is less than 3,300m <sup>3</sup>
More than 10,000 but less than or equal to 100,000	3 Plus 1 for each 10,000 m <sup>3</sup> of the average volume produced each day Plus 1 for any remaining part of the average volume produced each day that is less than 10,000 m <sup>3</sup>
More than 100,000	10 Plus 1 for each 25,000 m <sup>3</sup> of the average volume produced each day Plus 1 for any remaining part of the average volume produced each day that is less than 25,000 m <sup>3</sup>

- (1) The volume of water bottled each day must be calculated as an average taken over a year.
- (2) “a supply zone” means a geographically defined area within which water intended for human consumption comes from one or more sources and within which water quality may be considered as being approximately uniform.

## PART 4

### Methods of analyses relating to specified microbiological parameters

<i>Parameter</i>	<i>Method of analysis</i>
<i>Escherichia coli (E. coli)</i>	BS EN ISO 9308-1:2014+A1:2017 entitled “Water quality — Enumeration of Escherichia coli and coliform bacteria. Part 1: Membrane filtration method for waters with low bacterial background flora (ISO

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<i>Parameter</i>	<i>Method of analysis</i>
	9308-1:2014) (ISBN 978 0 580 92379 1) published by the BSI on 31st October 2014, as amended on 28th February 2017, or BS EN ISO 9308-2:2014 entitled “Water quality — Enumeration of Escherichia coli and coliform bacteria. Part 2: Most probable number method” (ISBN 978 0 580 84023 4) published by the BSI on 30th June 2012, as amended by a corrigendum issued on 30th June 2014
Enterococci	BS EN ISO 7899-2:2000, BS 6068-4.4:2000 entitled “Water quality — Detection and enumeration of intestinal enterococci — Part 2: Membrane filtration method” (ISBN 0 580 34953 5) published by the BSI on 15th August 2000
<i>Pseudomonas aeruginosa</i>	BS EN ISO 16266:2008 entitled “Water quality — Detection and enumeration of <i>Pseudomonas aeruginosa</i> — Method by membrane filtration” (ISBN 978 0 580 59736 7) published by the BSI on 31st March 2008
Colony count 22°C – enumeration of culturable microorganisms	BS EN ISO 6222: 1999, BS 6068-4.5:1999 entitled “Water quality — Enumeration of cultural microorganisms — Colony count by inoculation in a nutrient agar culture medium” (ISBN 0 580 32495 8) published by the BSI on 15th August 1999
Colony count 36°C – enumeration of culturable microorganisms	BS EN ISO 6222: 1999, BS 6068-4.5:1999 entitled “Water quality — Enumeration of cultural microorganisms — Colony count by inoculation in a nutrient agar culture medium” (ISBN 0 580 32495 8) published by the BSI on 15th August 1999

## PART 5

### Methods of analysis relating to chemical parameters

#### SECTION 1

##### *Methods of analysis*

#### **Method of analysis**

**17.** In relation to a parameter specified in the first column of the table in Part 3 of Schedule 2 (chemical parameters)—

- (a) where there is a method of analysis that meets minimum performance characteristics that can be used by a food authority to analyse a sample for the purpose of making a determination in relation to that parameter under paragraph 8, the food authority must analyse the sample using that method of analysis (or using any one of them in a case where more than one method of analysis meets minimum performance characteristics);
- (b) where there is no such method of analysis, the food authority must analyse a sample under paragraph 8 using the best available technique not entailing excessive cost.

### Minimum performance characteristics

**18.**—(1) For the purpose of paragraph 17(a), a method of analysis for a parameter specified in the first column of the table in Section 2 (minimum performance characteristics for a method of analysis) is a method of analysis that complies with minimum performance characteristics if it is a method of analysis that—

- (a) is capable of measuring concentrations equal to the parametric concentration of that parameter with a limit of quantification of 30% or less of the relevant parametric concentration,
- (b) has an uncertainty of measurement that does not exceed the percentage of the parametric concentration for the parameter specified in the second column of the table,
- (c) in the case of benzo(a)pyrene, complies, where relevant, with the requirement specified in the third column of the table, and
- (d) in the case of cyanide, complies with the requirement specified in the fourth column of the table.

(2) In the case of a parameter specified in the first column of the table in Section 2, where a method of analysis that complies with the requirements of sub-paragraph (1) is used to determine whether the concentration of that parameter exceeds the concentration specified for that parameter in the table in Part 3 of Schedule 2, the result of the analysis carried out using that method of analysis must be expressed using at least the same number of significant figures as the number of significant figures used to specify that parametric concentration in the table in Part 3 of Schedule 2.

### Minimum performance characteristics: individual pesticides

**19.**—(1) For the purpose of paragraph 17(a), a method of analysis for an individual pesticide is a method of analysis that complies with minimum performance characteristics if it is a method of analysis that—

- (a) is capable of measuring concentrations equal to the parametric concentration for that pesticide with a limit of quantification of 30% or less of the relevant parametric concentration;
- (b) has an uncertainty of measurement that does not exceed 30% of the parametric concentration for that pesticide or, where there is no method of analysis for the pesticide that does not exceed 30% of that concentration, an uncertainty of measurement that does not exceed—
  - (i) where there is a method of analysis for the pesticide that has an uncertainty of measurement of more than 30% but less than 80%—
    - (aa) the uncertainty of measurement percentage that applies in relation to that method of analysis, or
    - (bb) where there is more than one such method of analysis for the pesticide, the lowest of those percentages, or
  - (ii) 80%, where there is not a method of analysis for the pesticide that has an uncertainty of measurement of less than 80%.

(2) Where a method of analysis that complies with the requirements of sub-paragraph (1) is used to determine whether the concentration of an individual pesticide exceeds the parametric concentration specified in the table in Part 3 of Schedule 2 that applies to that pesticide, the result of the analysis carried out using that method of analysis must be expressed using at least the same number of significant figures as the number of significant figures used to specify the parametric concentration that applies to that pesticide in the table.

**Changes to legislation:** There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007. (See end of Document for details)

**Alternative minimum performance characteristics**

20.—(1) For the purpose of paragraph 17(a), until the end of 31st December 2019, a method of analysis for a parameter specified in the first column of the table in Section 3 (alternative minimum performance characteristics for a method of analysis that may be used until the end of 31st December 2019) is a method of analysis that complies with minimum performance characteristics if it is a method of analysis that—

- (a) is capable of measuring parametric concentrations with a trueness not less than the percentage of the parametric concentration specified in the second column of the table,
- (b) is capable of measuring parametric concentrations with a precision not less than the percentage of the parametric concentration specified in the third column of the table,
- (c) has a limit of detection that does not exceed the percentage of the parametric concentration specified in fourth column of the table, and
- (d) in the case of cyanide, complies with the requirement specified in the fifth column of the table.

(2) For the purpose of sub-paragraph (1)(b) and the table in Section 3, “precision” (the random error) is twice the relative standard deviation (within a batch and between batches) of the spread of results from the mean as further described in ISO 5725-1:1994(en) entitled “Accuracy (trueness and precision) of measurement methods and results – Part 1: General principles and definitions” published by the International Organization for Standardization on 22nd December 1994, as amended by ISO 5725-1:1994/Cor 1:1998 entitled “Accuracy (trueness and precision) of measurement methods and results – Part 1: General principles and definitions TECHNICAL CORRIGENDUM 1” published by the International Organization for Standardization on 2nd May 1998.

- (3) For the purpose of subparagraph (1)(c) and the table in Section 3, the limit of detection is—
- (a) three times the standard deviation within a batch of a natural sample containing a low concentration of the parameter, or
  - (b) five times the standard deviation of a blank sample within a batch.

**Uncertainty of measurement**

21.—(1) For the purpose of paragraph 18(1)(b) and 19(1)(b), the performance criterion for uncertainty of measurement ( $k = 2$ ) for a parameter specified in the first column of the table in Section 2 is not less than the percentage specified in the second column of the table of the concentration for the parameter specified in the second column of the table in Part 3 of Schedule 2.

(2) Food authorities must estimate uncertainty of measurement for a parameter specified in the first column of the table in Section 2 at the level of the concentration for the parameter specified in the second column of the table in Part 3 of Schedule 2.

*SECTION 2*

*Minimum performance characteristics for a method of analysis*

<i>Parameters</i>	<i>Uncertainty of measurement - percentage of the parametric concentration</i>	<i>Other requirements relating to the uncertainty of measurement</i>	<i>Other requirements</i>
Antimony	40		

**Changes to legislation:** There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007. (See end of Document for details)

<i>Parameters</i>	<i>Uncertainty of measurement - percentage of the parametric concentration</i>	<i>Other requirements relating to the uncertainty of measurement</i>	<i>Other requirements</i>
Arsenic	30		
Benzene	40		
Benzo(a)pyrene	50	Where there is no method of analysis for benzo(a)pyrene that has an uncertainty of measurement that does not exceed 50%, the best available method of analysis with an uncertainty of measurement not exceeding 60% must be used.	
Boron	25		
Bromate	40		
Cadmium	25		
Chromium	30		
Copper	25		
Cyanide	30		The method of analysis must determine total cyanide in all forms.
1,2-dichloroethane	40		
Fluoride	20		
Lead	25		
Mercury	30		
Nickel	25		
Nitrate	15		
Nitrite	20		
Polycyclic aromatic hydrocarbons—			
(a) individual substance	25		
(b) total substances	50		
Selenium	40		
Tetrachloroethenes—			
(a) individual substance	50		
(b) total substances	30		

**Changes to legislation:** There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007. (See end of Document for details)

<i>Parameters</i>	<i>Uncertainty of measurement - percentage of the parametric concentration</i>	<i>Other requirements relating to the uncertainty of measurement</i>	<i>Other requirements</i>
<i>Trichloroethenes—</i>			
(a) individual substance	50		
(b) total substances	40		
<i>Trihalomethanes—</i>			
(a) individual substance	25		
(b) total substances	40		

### SECTION 3

*Alternative minimum performance characteristics for a method of analysis that may be used until the end of 31st December 2019*

<i>Parameters</i>	<i>Trueness - percentage of the parametric concentration</i>	<i>Precision - percentage of the parametric concentration</i>	<i>Limit of detection - percentage of the parametric concentration</i>	<i>Other requirements</i>
Antimony	25	25	25	
Arsenic	10	10	10	
Benzene	25	25	25	
Benzo(a)pyrene	25	25	25	
Boron	10	10	10	
Bromate	25	25	25	
Cadmium	10	10	10	
Chromium	10	10	10	
Copper	10	10	10	
Cyanide	10	10	10	The method of analysis must determine total cyanide in all forms.
1,2-dichloroethane	25	25	10	
Fluoride	10	10	10	
Lead	10	10	10	
Mercury	20	10	20	
Nickel	10	10	10	
Nitrate	10	10	10	



**Changes to legislation:** There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007. (See end of Document for details)

<i>Parameters</i>	<i>Trueness - percentage of the parametric concentration</i>	<i>Precision - percentage of the parametric concentration</i>	<i>Limit of detection - percentage of the parametric concentration</i>	<i>Other requirements</i>
Nitrite	10	10	10	
Pesticide – individual substance	25	25	25	
Polycyclic aromatic hydrocarbons—				
(a) individual substance	25	25	25	
(b) total substances	25	25	25	
Selenium	10	10	10	
Tetrachloroethenes—				
(a) individual substance	50	50	50	
(b) total substances	25	25	10	
Trichloroethenes—				
(a) individual substance	50	50	50	
(b) total substances	25	25	10	
Trihalomethanes—				
(a) individual substance	25	25	25	
(b) total substances	25	25	10	

## PART 6

### Monitoring obligations relating to radon

#### Representative surveys

**22.**—(1) Each food authority must undertake representative surveys to determine the scale and nature of likely exposure to radon originating from different types of groundwater sources and wells in different geological areas within its area.

(2) The representative surveys must be designed in such a way that underlying parameters determining the likely exposure to radon, including the geology and hydrology of the area, the radioactivity of the rock types and soil types within the area and the type of wells within the area, can be identified and used to determine whether any source or well within the food authority’s area is in an area of likely high exposure to radon.

#### Monitoring obligation

**23.** Each food authority must monitor the concentration of radon in any water in its area to which this Schedule applies unless an exemption from monitoring under paragraph 24 is in force.

## **Exemption**

**24.**—(1) A food authority is not required to monitor the concentration of radon in any water in its area if—

- (a) on the basis of an assessment of representative surveys, monitoring data and such other information that it considers to be reliable, it is satisfied that the activity concentration of radon in the water does not exceed 100 Bq/l and has decided that it is unlikely to do so for at least five years beginning with the day after the day on which it comes to that decision (“assessment decision”),
- (b) it notifies the Secretary of State of its assessment decision and provides the Secretary of State with a copy of the representative surveys, monitoring data and any other information that the authority took into account in coming to that decision,
- (c) it notifies the Secretary of State that, on the basis of its assessment decision, the authority has decided not to monitor the activity concentration of radon in the water for a period of five years beginning with the day after the day on which the notification is submitted to the Secretary of State, and
- (d) in a case where sub-paragraph (2) applies, the food authority is satisfied that the activity concentration of radon in the water is unlikely to exceed 100 Bq/l for a period of five years beginning with the day after the day on which the food authority submits the notification under paragraph (c).

(2) This sub-paragraph applies where a notification under sub-paragraph (1)(c) is submitted more than three months after the day after the day on which a food authority makes an assessment decision under sub-paragraph (1)(a).

(3) A notification submitted by a food authority under sub-paragraph (1) may relate to all or some of the water in its area to which this Schedule applies.

(4) The exemption from monitoring provided for in sub-paragraph (1) lapses after a period of five years beginning with the day after the day on which the food authority submits the notification referred to in sub-paragraph (1)(c).

(5) But the exemption lapses immediately if the food authority becomes aware (by whatever means) at any time during the five year exemption period that the activity concentration of radon in the water exceeds 100 Bq/l or it has reason to suspect that the activity concentration of radon in the water may exceed 100 Bq/l.

## **Analysis of sample**

**25.**—(1) Where it is necessary under paragraph 23 for a food authority to monitor any water in its area to which this Schedule applies, the food authority must analyse a sample of the water to determine whether the activity concentration of radon in the water in that sample exceeds 100 Bq/l.

(2) The food authority must analyse the sample using a method of analysis that is capable of measuring the activity concentration of radon in the water with a level of detection not exceeding 10 Bq/l.

(3) The limit of detection for a method of analysis relating to the activity concentration of radon must be calculated in accordance with ISO Standard ISO 11929:2010(en) entitled “Determination of the characteristic limits (decision threshold, detection limit and limits of the confidence interval) for measurements of ionizing radiation - Fundamentals and application” published by the International Organization for Standardization on 24th February 2010, with probabilities of errors of the first and second kind of 0.05 each.

(4) In relation to the limit of detection, the uncertainty of measurement must be calculated and reported as complete standard uncertainties, or as expanded standard uncertainties with an expansion factor of 1.96, in accordance with ISO/IEC Guide 98-3:2008 (JCGM/WG1/100) entitled

“Uncertainty of measurement — Part 3: Guide to the expression of uncertainty in measurement (GUM:1995)” published by the International Organization for Standardization on 30th September 2008, as amended by—

- (a) ISO/IEC Guide 98-3:2008/Suppl 1:2008 (JCGM/WG1/101) entitled “Propagation of distributions using a Monte Carlo method” published by the International Organization for Standardization on 20th November 2010, and
- (b) ISO/IEC Guide 98-3:2008/Suppl 2:2011 (JCGM/WG1/102) entitled “Extension to any number of output quantities” published by the International Organization for Standardization on 9th November 2011.

### **Action following the result of analysis**

**26.**—(1) This paragraph applies if the result of an analysis of a sample of water carried out by a food authority under paragraph 25, or under any other provision of this Schedule, detects an activity concentration of radon exceeding 100 Bq/l.

(2) If an activity concentration of radon exceeding 1,000 Bq/l is detected in a sample of water, the food authority must take action under paragraph 57 (remedial action).

(3) If an activity concentration of radon exceeding 100 Bq/l but not exceeding 1,000 Bq/l is detected in a sample of water (“Sample X”), the food authority must—

- (a) take and analyse an extra sample of the water as soon as reasonably practicable after the result of Sample X is detected to determine the activity concentration of radon in the extra sample;
- (b) if the food authority considers it appropriate to do so, continue taking and analysing extra samples of the water to determine the activity concentration of radon in those samples at such intervals and for such period as the food authority, taking into account the provisions of sub-paragraphs (4) to (6), considers appropriate.

(4) The food authority must, disregarding the result of Sample X, determine the average of the activity concentration of radon in the water for such 12 month period as the authority considers appropriate (whether the 12 month period used by the food authority for the purpose of its monitoring programme or some other 12 month period) on the basis of—

- (a) the results of the analyses of samples of the water carried out before the determination of the result of Sample X,
- (b) the result of the analysis of the extra sample under sub-paragraph (3)(a), and
- (c) where extra samples are taken under sub-paragraph (3)(b), the results of the analyses of those extra samples.

(5) No further action by the food authority is required if the outcome of the determination under sub-paragraph (4) is that the average of the activity concentration of radon in the water for the relevant 12 month period does not exceed 100 Bq/l.

(6) The food authority must take action under paragraph 57(1) (remedial action) if the outcome of the determination under sub-paragraph (4) is that the average of the activity concentration of radon in the water for the relevant 12 month period exceeds 100 Bq/l.

(7) Sub-paragraphs (3) to (6) do not apply if the food authority is of the opinion that—

- (a) even if it took extra samples under sub-paragraph (3) to enable it to determine the activity concentration of radon in those extra samples, it would have insufficient results from previous determinations relating to the activity concentration of radon in the water to enable it to make the determination required by sub-paragraph (4) within such period as the food authority considers to be reasonable, or

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(b) for some other reason, the result of such a determination under sub-paragraph (4), based on the results of those extra samples and previous determinations, may give a distorted result.

(8) Where an activity concentration of radon exceeding 100 Bq/l but not exceeding 1,000 Bq/l is detected in a sample of water and, by virtue of sub-paragraph (7), sub-paragraphs (3) to (6) do not apply, a food authority must take action under paragraph 57(1).

#### **Taking of samples: reduced frequency**

**27.**—(1) A food authority may, from time to time, decide to reduce the frequency at which it takes and analyses samples of any water in its area under paragraph 25 to determine the activity concentration of radon in the water where—

- (a) the result of the analysis of the last sample of the water carried out by the food authority shows that the activity concentration of radon in the water does not exceed 100 Bq/l,
- (b) that result, taken together with the results of such other analyses of the water previously carried out by the food authority as it considers relevant to its decision, show that the activity concentration of radon in the water is stable, and
- (c) the authority is satisfied that the change in the monitoring arrangements will not increase any risk to human health.

(2) A food authority that has made a decision under sub-paragraph (1) to reduce the frequency at which it takes samples of any water, may decide at any time to start taking samples of the water again at the frequency provided for in the table in Part 3 or, in accordance with sub-paragraph (1), at some other reduced frequency.

#### **Treated bottled drinking water**

**28.** The provisions of this Part, except for paragraph 27, apply to bottled drinking water that has been treated to reduce the level of radionuclides in the water in the same way as it applies to water that has not been treated in that way.

## **PART 7**

### **Monitoring obligations relating to tritium**

#### **Monitoring obligation**

**29.** Each food authority must monitor the activity concentration of tritium in any water in its area to which this Schedule applies if an anthropogenic source of tritium or other artificial radionuclide is present within the catchment area, unless an exemption from monitoring under paragraph 30 is in force.

#### **Exemption**

**30.**—(1) A food authority is not required to monitor the activity concentration of tritium in any water in its area if—

- (a) on the basis of an assessment of representative surveys, monitoring data and such other information as it considers to be reliable, it is satisfied that the activity concentration of tritium in the water does not exceed 100 Bq/l and has decided that it is unlikely to do so for at least five years beginning with the day after the day on which it comes to that decision (“assessment decision”),

- (b) it notifies the Secretary of State of its assessment decision and provides the Secretary of State with a copy of the representative surveys, monitoring data and any other information that the authority took into account in coming to that decision,
- (c) it notifies the Secretary of State that, on the basis of its assessment decision, the authority has decided not to monitor the activity concentration of tritium in the water for a period of five years beginning with the day after the day on which the notification is submitted to the Secretary of State, and
- (d) in a case where sub-paragraph (2) applies, the food authority is satisfied that the activity concentration of tritium in the water is unlikely to exceed 100 Bq/l for a period of five years beginning with the day after the day on which the food authority submits the notification under paragraph (c) to the Secretary of State.

(2) This sub-paragraph applies where a notification under sub-paragraph (1)(c) is submitted more than three months after the day after the day on which a food authority makes an assessment decision under sub-paragraph (1)(a).

(3) A notification submitted by a food authority under sub-paragraph (1) may relate to all or some of the water in its area to which this Schedule applies.

(4) The exemption from monitoring provided for in sub-paragraph (1) lapses after a period of five years beginning with the day after the day on which the food authority submits the notification referred to in sub-paragraph (1)(c).

(5) But the exemption lapses immediately if the food authority becomes aware (by whatever means) at any time during the five year exemption period that the activity concentration of tritium in the water exceeds 100 Bq/l or it has reason to suspect that the activity concentration of tritium in the water may exceed 100 Bq/l.

### **Analysis of sample**

**31.**—(1) Where it is necessary under paragraph 29 for a food authority to monitor any water in its area to which this Schedule applies, the food authority must analyse a sample of the water to determine whether the activity concentration of tritium exceeds 100 Bq/l.

(2) The food authority must analyse the sample using a method of analysis that is capable of measuring the activity concentration of tritium in the water with a level of detection not exceeding 10 Bq/l.

(3) The provisions in paragraph 25(3) and (4) (relating to the calculation and reporting of the limit of detection) apply in the same way to the calculation of the limit of detection for a method of analysis used to measure the activity concentration of tritium as they apply to the calculation and reporting of the limit of detection for a method of analysis used to measure the activity concentration of radon.

### **Action following the results of analysis**

**32.**—(1) This paragraph applies if the result of an analysis of a sample of any water carried out by a food authority under paragraph 31, or under any other provision of this Schedule, detects an activity concentration of tritium exceeding 100 Bq/l in that sample (“Sample X”).

(2) The food authority must—

- (a) take and analyse an extra sample of the water as soon as reasonably practicable after the result of Sample X is detected by it to determine the activity concentration of tritium in the extra sample,
- (b) if the food authority considers it appropriate to do so, continue taking and analysing extra samples of the water to determine the activity concentration of tritium in those samples at

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such intervals and for such period as the food authority, taking into account sub-paragraphs (3) to (5), considers appropriate,

- (c) determine, by analysis, the gross alpha activity and gross beta activity of the water using water from the same sample, and
- (d) taking into account such information about likely sources of radioactivity affecting the water as the food authority considers relevant, analyse a sample of the water (whether water from the same sample or from a different sample of the water) to determine whether such other artificial radionuclides as the food authority may consider relevant are present in the water.

(3) The food authority must, disregarding the result of Sample X, determine the average of the activity concentration of tritium in the water for such 12 month period as the authority considers appropriate (whether the 12 month period used by the food authority for the purpose of its monitoring programme or some other 12 month period) on the basis of—

- (a) the results of the analyses of samples of the water carried out before the determination of the result of Sample X,
- (b) the result of the analysis of the extra sample under sub-paragraph (2)(a), and
- (c) where extra samples are [<sup>F77</sup>taken] under sub-paragraph (2)(b), the results of the analyses of those extra samples.

(4) No further action by the food authority is required if the outcome of the determination under sub-paragraph (3) is that the average of the activity concentration of tritium in the water for the relevant 12 month period does not exceed 100 Bq/l.

(5) The food authority must take action under paragraph 57(1) (remedial action) if the outcome of the determination under sub-paragraph (3) is that the average of the activity concentration of tritium in the water for the relevant 12 month period exceeds 100 Bq/l.

(6) Sub-paragraphs (2)(a) and (b) and (3) to (5) do not apply if the food authority is of the opinion that—

- (a) even if it took extra samples under sub-paragraph (2)(a) and (b) to enable it to determine the activity concentration of tritium in those extra samples, it would have insufficient results from previous determinations relating to the activity concentration of tritium in the water to enable it to make the determination required by sub-paragraph (3) within such period as the food authority considers to be reasonable, or
- (b) for some other reason, the result of such a determination under sub-paragraph (3) based on the results of those extra samples and previous determinations may give a distorted result.

(7) Where an activity concentration of tritium exceeding 100 Bq/l is detected in a sample of water and, by virtue of sub-paragraph (6), sub-paragraphs (2)(a) and (b) and (3) to (5) do not apply, the food authority must take action under paragraph 57(1).

(8) Where a determination of the gross alpha activity and gross beta activity must be made by a food authority under sub-paragraph (2)(c), the food authority must apply the provisions of paragraph 38(2) to (8), in the case of gross alpha activity, and paragraph 39(2) to (8), in the case of gross beta activity, in carrying out that determination and deciding what further action, if any, to take.

#### Textual Amendments

**F77** Word in [Sch. 12 para. 32\(3\)\(c\)](#) inserted (29.3.2019) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments etc.\) Regulations 2019 \(S.I. 2019/526\)](#), regs. 1(2), **27(2)(b)**

### **Taking of samples: reduced frequency**

**33.**—(1) A food authority may, from time to time, decide to reduce the frequency at which it takes and analyses samples of any water in its area under paragraph 31 to determine the activity concentration of tritium in the water where—

- (a) the result of the analysis of the last sample of the water carried out by the food authority shows that the activity concentration of tritium in the water does not exceed 100 Bq/l,
- (b) that result, taken together with the results of such other analyses of the water previously carried out by the food authority as it considers relevant to its decision, show that the activity concentration of tritium in the water is stable, and
- (c) the authority is satisfied that the change in the monitoring arrangements will not increase any risk to human health.

(2) A food authority which has made a decision under sub-paragraph (1) to reduce the frequency at which it takes samples of water, may decide at any time to start taking samples of the water again at the frequency provided for in the table in Part 3 or, in accordance with sub-paragraph (1), at some other reduced frequency.

### **Treated bottled drinking water**

**34.** The provisions of this Part, except for paragraph 33, apply to bottled drinking water that has been treated to reduce the level of radionuclides in the water in the same way as it applies to water that has not been treated in that way.

## **PART 8**

### **Monitoring obligations relating to indicative dose**

#### *SECTION 1*

#### *General*

### **Monitoring obligation**

**35.** If a source of artificial or elevated natural radioactivity is present in a food authority's area, it must monitor the indicative dose for any water in its area to which this Schedule applies unless an exemption from monitoring under paragraph 36 is in force.

### **Exemption**

**36.**—(1) A food authority is not required to monitor the indicative dose for any water in its area to which this Schedule applies if—

- (a) on the basis of representative surveys, monitoring data and such other information that it considers to be reliable, it is satisfied that the indicative dose for the water does not exceed 0.10 mSv and has decided that it is unlikely to do so for at least five years beginning with the day after the day on which it comes to that decision (“assessment decision”),
- (b) it notifies the Secretary of State of its assessment decision and provides the Secretary of State with a copy of the representative surveys, monitoring data and any other information that the authority took into account in coming to that decision,
- (c) it notifies the Secretary of State that, on the basis of its assessment decision, the authority has decided not to monitor the indicative dose for the water for a period of five years

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beginning with the day after the day on which the notification is submitted to the Secretary of State, and

- (d) in a case where sub-paragraph (2) applies, the food authority is satisfied that the indicative dose for the water is unlikely to exceed 0.10 mSv for a period of five years beginning with the day after the day on which the food authority submits the notification under paragraph (c) to the Secretary of State.

(2) This sub-paragraph applies where a notification under sub-paragraph (1)(c) is submitted more than three months after the day after the day on which a food authority makes an assessment decision under sub-paragraph (1)(a).

(3) A notification submitted by a food authority under sub-paragraph (1) may relate to all or some of the water in its area to which this Schedule applies.

(4) The exemption from monitoring provided for in sub-paragraph (1) lapses after a period of five years beginning with the day after the day on which the food authority submits the notification referred to in sub-paragraph (1)(c).

(5) But the exemption lapses immediately if the food authority becomes aware (by whatever means) at any time during the five year exemption period that the indicative dose for the water exceeds 0.10 mSv or it has reason to suspect that the indicative dose for the water may exceed 0.10 mSv.

### **Screening**

**37.**—(1) For the purpose of monitoring the indicative dose for any water in its area to which this Schedule applies, the food authority may use such screening strategy as it considers to be reliable to determine whether it is necessary for it to carry out a paragraph 45 determination for the water, including—

- (a) screening by determining the gross alpha activity in a sample,
- (b) screening by determining the gross beta activity in a sample,
- (c) screening by determining the activity concentration of a single radionuclide in a sample, or
- (d) screening by determining the activity concentration of two or more radionuclides in a sample.

(2) A food authority, in deciding which radionuclide to analyse for the purpose of screening under sub-paragraph (1)(c), and which radionuclides to analyse for the purpose of screening under sub-paragraph (1)(d), must take into account all information available to the authority that it considers relevant relating to likely sources of radioactivity that may affect the water.

### **Screening by determining gross alpha activity**

**38.**—(1) This paragraph applies where a food authority decides to screen any water under paragraph 37(1)(a) (screening of gross alpha activity) to determine whether it is necessary for the authority carry out a paragraph 45 determination for the water.

(2) The food authority must analyse a sample of water to determine whether the gross alpha activity in a sample is less than 0.1 Bq/l.

(3) Where the gross alpha activity detected in a sample does not exceed 0.1 Bq/l, the food authority may assume that the indicative dose for the water does not exceed 0.10 mSv.

(4) Where sub-paragraph (3) applies, the food authority does not need to carry out any further analysis for the purpose of carrying out a paragraph 45 determination for the water, unless it knows from other sources of information that specific radionuclides are present in the water that mean that the indicative dose for the water is likely to exceed 0.10 mSv.



(5) Where the gross alpha activity detected in a sample exceeds 0.1 Bq/l, the food authority must determine, by analysis, the activity concentration of such other radionuclides in the water (using water from the same sample or another sample of the water) as the food authority believes or suspects may be present in the water, taking into account such information about likely sources of radioactivity affecting the water as the food authority considers relevant.

(6) For the purpose of this paragraph, the food authority may set an alternative screening level for gross alpha activity in relation to any water that it is monitoring—

- (a) if it is satisfied that, if set at the alternative level that it proposes, the indicative dose for the water will not exceed 0.10 mSv, and
- (b) if called upon to do so by the Secretary of State, it can demonstrate to the Secretary of State that, at that alternative screening level, the indicative dose for the water will not exceed 0.10 mSv.

(7) When determining the gross alpha activity in a sample of water for the purpose of this paragraph, the food authority must analyse the sample using a method of analysis that is capable of detecting gross alpha activity in the sample at a level of detection not exceeding 0.04 Bq/l.

(8) The provisions in paragraph 25(3) and (4) (relating to the calculation and reporting of the limit of detection) apply in the same way to the calculation of the limit of detection for a method of analysis used to measure gross alpha activity as they apply to the calculation and reporting of the limit of detection for a method of analysis used to measure the activity concentration of radon.

### **Screening by determining gross beta activity**

**39.**—(1) This paragraph applies where a food authority decides to screen any water under paragraph 37(1)(b) (screening of gross beta activity) to determine whether it is necessary for the authority to carry out a paragraph 45 determination for the water.

(2) The food authority must analyse a sample of the water to determine whether the gross beta activity in the sample is less than 1.0 Bq/l.

(3) Where the gross beta activity detected in a sample does not exceed 1.0 Bq/l, the food authority may assume that the indicative dose for the water does not exceed 0.10 mSv.

(4) Where sub-paragraph (3) applies, the food authority does not need to carry out any further analysis for the purpose of carrying out a paragraph 45 determination for the water, unless it knows from other sources of information that specific radionuclides are present in the water that mean that the indicative dose for the water is likely to exceed 0.10 mSv.

(5) Where the gross beta activity of a sample exceeds 1.0 Bq/l, the food authority must determine, by analysis, the activity concentration of such other radionuclides in the water (using water from the same sample or from another sample of the water) as the food authority believes or suspects may be present in the water, taking into account such information about likely sources of radioactivity affecting the water as the food authority considers relevant.

(6) For the purpose of this paragraph, the food authority may set an alternative screening level for gross beta activity in relation to any water that it is monitoring—

- (a) if it is satisfied that, if set at the alternative level that it proposes, the indicative dose for the water will not exceed 0.10 mSv, and
- (b) if called upon to do so by the Secretary of State, it can demonstrate to the Secretary of State that, at that alternative screening level, the indicative dose for the water will not exceed 0.10 mSv.

(7) When determining the gross beta activity in a sample of water for the purpose of this paragraph, the food authority must analyse the sample using a method of analysis that is capable of detecting gross beta activity in the sample at a level of detection not exceeding 0.4 Bq/l.

(8) The provisions in paragraph 25(3) and (4) (relating to the calculation and reporting of the limit of detection) apply in the same way to the calculation of the limit of detection for a method of analysis used to measure gross beta activity as they apply to the calculation and reporting of the limit of detection for a method of analysis used to measure the activity concentration of radon.

#### **Screening based on analysis relating to one radionuclide**

**40.**—(1) This paragraph applies where a food authority decides to screen any water under paragraph 37(1)(c) by determining the activity concentration of one radionuclide in the water to determine whether it is necessary for the authority to carry out a paragraph 45 determination for the water.

(2) The food authority must analyse a sample of the water to determine whether the activity concentration of the relevant radionuclide in the sample exceeds 20% of its derived concentration.

(3) Where the activity concentration of the radionuclide in the sample does not exceed 20% of its derived concentration, the food authority may assume that the indicative dose for the water does not exceed 0.10 mSv.

(4) Where sub-paragraph (3) applies, the food authority does not need to carry out any further analysis for the purpose of carrying out a paragraph 45 determination for the water.

(5) Where the activity concentration of the relevant radionuclide in the sample exceeds 20% of its derived concentration, the food authority must determine, by analyses, the activity concentration of such other radionuclides in the water (using water from the same sample or from another sample of the water) as the food authority believes or suspects may be present in the water, taking into account such information about likely sources of radioactivity affecting the water as the food authority considers relevant and the result of any analysis carried out by it under paragraph 32(2)(d).

#### **Screening based on analysis relating to more than one radionuclide**

**41.**—(1) This paragraph applies where a food authority decides to screen any water under paragraph 37(1)(d) by determining the activity concentration of more than one radionuclide in the water (“the relevant radionuclides”) to determine whether it is necessary for the authority to carry out a paragraph 45 determination for the water.

(2) The food authority must analyse a sample of the water to determine whether, in relation to each of the relevant radionuclides, the activity concentration of any of the relevant radionuclides in the sample exceeds 20% of its derived concentration.

(3) Where the activity concentration of each of the relevant radionuclides in a sample is analysed and none of them are found to be present in the sample at an activity concentration that exceeds 20% of the derived concentration that applies to them, the food authority may assume that the indicative dose for the water does not exceed 0.10 mSv.

(4) Where sub-paragraph (3) applies, the food authority does not need to carry out any further analysis for the purpose of carrying out a paragraph 45 determination for the water.

(5) Where the food authority screens a sample of water for more than one radionuclide and the activity concentration of any one or more of those radionuclides in the sample exceeds 20% of the derived concentration that applies to it or them, the food authority must determine, by analyses, the activity concentration of such other radionuclides in the water (using water from the same sample or from another sample of the water) as the food authority believes or suspects may be present in the water, taking into account such information about likely sources of radioactivity affecting the water as the food authority considers relevant and the result of any analysis carried out by it under paragraph 32(2)(d).

### **Stopping or reducing the frequency of sampling: screening for indicative dose**

**42.**—(1) In relation to screening for indicative dose, a food authority may, from time to time, decide to stop taking samples for screening purposes, or to take such samples at a reduced frequency, where—

- (a) it is satisfied that only naturally occurring radionuclides are present in the water,
- (b) the result of the analysis of the last sample of the water carried out by the food authority for screening purposes shows that—
  - (i) where screening has been carried out under paragraph 38, the gross alpha activity in the water did not exceed 0.1 Bq/l,
  - (ii) where screening has been carried out under paragraph 39, the gross beta activity in the water did not exceed 1.0 Bq/l, or
  - (iii) where screening has been carried out under paragraph 40 or 41, the activity concentration of any radionuclide in the water analysed for the purpose of that screening did not exceed 20% of its derived concentration,
- (c) in a case where the results of the analyses of previous samples taken by the food authority for screening purposes are available and the food authority considers them to be relevant to its decision, the results of the analyses of those samples, taken together with the result of the analysis of the last sample, show that—
  - (i) where screening has been carried out under paragraph 38, the gross alpha activity in the water is stable,
  - (ii) where screening has been carried out under paragraph 39, the gross beta activity in the water is stable, or
  - (iii) where screening has been carried out under paragraph 40 or 41, the activity concentration of any radionuclide analysed for the purpose of that screening is stable, and
- (d) the authority is satisfied that the change in the monitoring arrangements will not increase any risk to human health.

(2) Where a food authority has made a decision under sub-paragraph (1) to stop taking samples of water for the purpose of screening under paragraph 38, 39, 40 or 41 but a change occurs in relation to the supply of the water that the food authority believes is likely to influence the activity concentration of radionuclides in the water, the food authority must—

- (a) take and analyse a sample of the water using one of the screening methods specified in paragraph 37(1), or
- (b) take and analyse a sample of the water and use the results of that analysis to make a paragraph 45 determination for the water.

(3) A food authority which has made a decision under sub-paragraph (1) to stop taking samples of any water, or to reduce the frequency at which it takes samples of the water, may at any time decide to start taking samples of the water again at the frequency provided for in the table in Part 3 or, in accordance with sub-paragraph (1), at some other reduced frequency.

### **Analysis of sample**

**43.**—(1) Where sub-paragraph (2) applies, a food authority must, taking into account such information about likely sources of radioactivity affecting the water as the authority considers relevant, analyse a sample of the water to determine—

- (a) which radionuclides are present in the water, and

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- (b) in relation to each radionuclide found to be present in the water (including radionuclides found to be present in the water as the result of an analysis carried out by it under paragraph 32(2)(d)), the activity concentration at which the radionuclide is present in the water.
- (2) This sub-paragraph applies where a food authority is obliged under paragraph 35 to monitor any water in its area to which this Schedule applies and—
- (a) the food authority has not carried out any screening during the relevant period under paragraph 38, 39, 40 or 41, and
  - (b) the water is not water to which a decision to stop taking samples for screening purposes is in force under paragraph 42.
- (3) When analysing a sample of water for the purpose of this Part to determine the presence and activity concentration of a radionuclide specified in the first column of the table in Section 2 (minimum levels of detection), the food authority must analyse the sample using a method of analysis that is capable of detecting the activity concentration of the relevant radionuclide at a level of detection not exceeding that specified in the second column of the table, as read, in the case of Ra-228, with the additional provisions specified in the third column of the table.
- (4) The provisions in paragraph 25(3) and (4) (relating to the calculation and reporting of the limit of detection) apply in the same way to the calculation and reporting of the limit of detection for a method of analysis used to measure the activity concentration of a radionuclide specified in the first column of the table in Section 2 as they apply to the calculation and reporting of the limit of detection for a method of analysis used to measure the activity concentration of radon.

#### **Obligation to make an indicative dose determination**

- 44.—(1) A food authority must make a paragraph 45 determination for any water in its area to which this Schedule applies if—
- (a) it has not carried out any screening of the water under paragraph 38, 39, 40 or 41 and the obligation does not arise during a period in which a decision made under paragraph 42 to stop taking samples for screening purposes applies,
  - (b) it has carried out such screening and a determination made under paragraph 38(5), 39(5), 40(5) or 41(5) detected the presence of a radionuclide in the water at an activity concentration that exceeds 20% of its derived concentration, or
  - (c) a food authority decides to comply with paragraph 42(2) by taking and analysing a sample of the water and using the results of that analysis to make a paragraph 45 determination for the water.
- (2) Sub-paragraph (1) does not apply if the obligation arises during a period in which a decision made under paragraph 47 to stop taking samples for the purpose of carrying out a paragraph 45 determination applies.

#### **Determination relating to indicative dose**

- 45.—(1) This paragraph applies where it is necessary under paragraph 44 for a food authority to make a determination relating to whether the indicative dose for any water in its area to which this Schedule applies exceeds 0.10 mSv.
- (2) The food authority must use the formula in sub-paragraph (3) to make a determination relating to the indicative dose for the water by—
- (a) carrying out the calculation in sub-paragraph (4) for each radionuclide that the food authority has found, by analysis, to be present in the water, and
  - (b) adding together the results of all the calculations done under paragraph (a).
- (3) For the purposes of sub-paragraph (2), the formula is—

$$\sum_{i=1}^n \frac{Ci(obs)}{Ci(der)}$$

- (4) For the purpose of sub-paragraph (2)(a), the calculation is  $Ci(obs) \div Ci(der)$ .
- (5) For the purpose of the formula in sub-paragraph (3) and the calculation in sub-paragraph (4)—
- (a)  $Ci(obs)$  is the activity concentration (observed concentration) at which a radionuclide has been found, by analysis, to be present in the water expressed in becquerels per litre, and
  - (b)  $Ci(der)$  is the derived concentration for that radionuclide expressed in becquerels per litre.
- (6) For the purpose of the formula in sub-paragraph (3),  $n$  is the number of radionuclides the food authority has found, by analysis, to be present in the water.
- (7) Any non-integer numbers resulting from the calculation carried out under sub-paragraph (2), as read with sub-paragraphs (3) and (4), must be taken into account in calculating and making a determination under this paragraph.

#### Action following the result of a paragraph 45 determination

**46.**—(1) If a paragraph 45 determination for any water produces a result that does not exceed 1, the indicative dose for the water is to be considered as not exceeding 0.10 mSv and no further investigation by the food authority is required.

(2) If a paragraph 45 determination for any water produces a result that exceeds 1 (“Indicative Dose Determination X”), sub-paragraphs (3) to (7) apply to such water.

(3) The food authority must—

- (a) take and analyse an extra sample of the water as soon as reasonably practicable after the result of Indicative Dose Determination X is known and use the result of the analysis of that sample to carry out another paragraph 45 determination for the water;
- (b) if the food authority considers it appropriate to do so taking into account the determination made under paragraph (a), continue taking and analysing extra samples of the water, and use the results of those analyses to carry out further paragraph 45 determinations for the water, at such intervals and for such period as the food authority (taking into account the provisions of sub-paragraphs (4) to (6)) considers appropriate.

(4) The food authority must, disregarding the determination of Indicative Dose Determination X, determine the average of the indicative dose determinations for the water for such 12 month period as the authority considers appropriate (whether the 12 month period used by the food authority for the purpose of its monitoring programme or some other 12 month period) on the basis of—

- (a) the results of paragraph 45 determinations relating to the water carried out before the determination of Indicative Dose Determination X,
- (b) the result of the extra paragraph 45 determination for the water carried out under sub-paragraph (3)(a), and
- (c) where any extra paragraph 45 determinations for the water are carried out under sub-paragraph (3)(b), the results of those extra determinations.

(5) No further action by the food authority is required if the outcome of the determination under sub-paragraph (4) is that the average of the indicative dose determinations for the water for the relevant 12 month period does not exceed 1.

(6) The food authority must take action under paragraph 57(1) (remedial action) if the outcome of the determination under sub-paragraph (4) is that the average of the indicative dose determinations for the water for the relevant 12 month period exceeds 1.

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- (7) Sub-paragraphs (2) to (6) do not apply if the food authority is of the opinion that—
- (a) even if it took extra samples under sub-paragraph (3) to enable it to make extra paragraph 45 determinations under that sub-paragraph, it would have insufficient results from previous paragraph 45 determinations for the water to enable it to make the determination required by sub-paragraph (4) within such period as the food authority considers to be reasonable, or
  - (b) for some other reason, the result of such a determination under sub-paragraph (4), based on the results of those extra samples and the previous paragraph 45 determinations, may give a distorted result.
- (8) Where the paragraph 45 determination for a sample of water exceeds 1 and, by virtue of sub-paragraph (7), sub-paragraphs (2) to (6) do not apply, the food authority must take action under paragraph 57(1).
- (9) For the purposes of the determination required under sub-paragraph (4), any non-integer numbers resulting from the calculation carried out by a food authority under paragraph 45(2), as read with sub-paragraphs (3) and (4) of that paragraph, must be taken into account in determining whether the result of the determination of the average of the indicative dose for the water for the relevant 12 month period exceeds 1.

#### **Stopping or reducing the frequency of sampling: indicative dose**

- 47.—**(1) A food authority may, from time to time, decide to stop taking samples for the purpose of carrying out a paragraph 45 determination for any water, or to take such samples at a reduced frequency, where—
- (a) it is satisfied that only naturally occurring radionuclides are present in the water,
  - (b) the result of the last paragraph 45 determination for the water carried out by the food authority produces a result that does not exceed 1,
  - (c) in a case where the results of previous paragraph 45 determinations for the water are available and the food authority considers them to be relevant to its decision, the average of the results of those determinations produce a result that does not exceed 1, and
  - (d) the authority is satisfied that the change in the monitoring arrangements will not increase any risk to human health.
- (2) Where a food authority has made a decision under sub-paragraph (1) to stop taking samples of water for the purpose of carrying out a paragraph 45 determination for the water but a change occurs in relation to the supply of the water that the food authority believes is likely to influence the concentration of radionuclides in the water, a food authority must—
- (a) take and analyse a sample of the water using one of the screening methods specified in paragraph 37, or
  - (b) take and analyse a sample of the water and use the results of that analysis to make a paragraph 45 determination for the water.
- (3) A food authority which has made a decision under sub-paragraph (1) to stop taking samples of any water, or to reduce the frequency at which it takes samples of the water, for the purpose of making paragraph 45 determinations for any water in its area may at any time decide to start taking samples of the water again at the frequency provided for in the table in Part 3 or, in accordance with sub-paragraph (1), at some other reduced frequency.

**Changes to legislation:** There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007. (See end of Document for details)

**Treated bottled drinking water**

48. The provisions of this Part, except for paragraph 47, apply to bottled drinking water that has been treated to reduce the level of radionuclides in the water in the same way as it applies to water that has not been treated in that way.

*SECTION 2*

*Minimum levels of detection*

<i>Radionuclides</i>	<i>Limit of detection – Bq/l</i>	<i>Additional provision</i>
U-238	0.02	
U-234	0.02	
Ra-226	0.04	
Ra-228	0.02	The limit of detection in the second column only applies to the initial screening relating to the indicative dose for a new water source.
		If initial analysis indicates that it is not plausible that Ra-228 will exceed 20% of its derived concentration, the food authority may increase the minimum limit of detection to 0.08 Bq/l for routine Ra-228 nuclide specific measurements, until a recheck is required following a change in the supply of the water that the food authority believes may influence the activity concentration of Ra-228 in the water. The food authority may increase the minimum level of detection back to 0.08 Bq/l again following the result of any recheck if the result of the analysis carried out in relation to that determines that the concentration of Ra-228 in the water does not exceed 20% of its derived concentration.
Pb-210	0.02	
Po-210	0.01	
C-14	20	
Sr-90	0.4	
Pu-239/Pu-240	0.04	
Am-241	0.06	
Co-60	0.5	
Cs-134	0.5	
Cs-137	0.5	
I-131	0.5	

**Changes to legislation:** There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007. (See end of Document for details)

### SECTION 3

#### Interpretation

##### Derived concentration

49.—(1) In this Part, “derived concentration” in relation to a radionuclide specified in the first column of the following table, means the derived concentration of the radionuclide specified in the second column of that table.

<i>Radionuclide</i>	<i>Derived concentration - Bq/l</i>
U-238	3.0
U-234	2.8
Ra-226	0.5
Ra-228	0.2
Pb-210	0.2
Po-210	0.1
C-14	240
Sr-90	4.9
Pu-239/Pu-240	0.6
Am-241	0.7
Co-60	40
Cs-134	7.2
Cs-137	11
I-131	6.2

(2) In this Part, “derived concentration” in relation to a radionuclide that is not specified in the first column of the table in sub-paragraph (1) means the derived concentration of the radionuclide expressed in becquerels per litre and calculated using the following formula—

$$\text{Derived concentration} = \frac{0.1}{\text{ICRP dose coefficient mSv x 730}}$$

(3) For the purpose of the formula in sub-paragraph (2) “ICRP dose coefficient mSv” means the number of millisieverts per becquerel represented by the dose coefficient for an adult for the relevant radionuclide specified in the last column of the table in Annex F (effective dose coefficients for ingestion of radionuclides for members of the public) to ICRP Publication 119 entitled “Compendium of Dose Coefficients based on ICRP Publication 60” published in Volume 41 of Supplement 1 2012 of the Annals of the ICRP on behalf of the International Commission on Radiological Protection by Elsevier and approved by the Commission in October 2011 (ISBN 978-1-4557-5430-4).



## PART 9

## Monitoring obligations relating to indicator parameters

## SECTION 1

## Parametric concentrations and values for indicator parameters

<i>Parameter</i>	<i>Parametric concentration or value</i>	<i>Units of measurement</i>	<i>Further provision</i>	<i>Additional requirements</i>
Aluminium	200	µg/l		
Ammonium	0.50	mg/l		
Chloride	250	mg/l		The water must not be aggressive.
<i>Clostridium perfringens</i> spores and of <i>Clostridium perfringens</i>	0	number/100ml	This parameter only needs to be checked if the water originates from, or is influenced by, surface water.	
Colour	Acceptable to consumers and no abnormal change			
Conductivity	2,500	µS cm <sup>-1</sup> at 20°C		The water must not be aggressive.
Hydrogen ion concentration	9.5	pH units		The pH of the water must not be lower than 4.5.  The water must not be aggressive.
Iron	200	µg/l		
Manganese	50	µg/l		
Odour	Acceptable to consumers and no abnormal change			
Oxidisability	5.0	mg/l O <sub>2</sub>	This parameter does not need to be checked if total organic	

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<i>Parameter</i>	<i>Parametric concentration or value</i>	<i>Units of measurement</i>	<i>Further provision</i>	<i>Additional requirements</i>
			carbon is analysed.	
Sulphate	250	mg/l		The water must not be aggressive.
Sodium	200	mg/l		
Taste	Acceptable to consumers and no abnormal change			
Colony Count 22° C	No abnormal change			
Coliform bacteria	0	number/250ml		
Total organic carbon	No abnormal change		This parameter does not need to be checked for supplies of less than 10,000m <sup>3</sup> a day.	
Turbidity	Acceptable to consumers and no abnormal change			

## SECTION 2

### Monitoring obligations

#### Analysis of sample

**50.**—(1) Each food authority must monitor the concentration or value (as the case may be) of each of the parameters specified in the first column of the table in Section 1 in water in its area to which this Schedule applies by analysing a sample of the water to determine whether—

- (a) the concentration of, or value for, the parameter in the sample exceeds the concentration of, or value for, that parameter specified in the second column of the table—
  - (i) as measured, where relevant, by reference to the unit of measurement specified in the third column of the table, and
  - (ii) as read, in relation to a parameter specified in the first column of the table for which there is an additional requirement specified in the fourth column of the table, with the provision relating to the need to check the parameter specified in the fourth column of the table, and
- (b) in relation to a parameter specified in the first column of the table for which there is an additional requirement specified in the fifth column of the table, the water complies with that additional requirement.

(2) For the purpose of the determination required by sub-paragraph (1), the food authority must analyse the sample—

- (a) in the case of *Clostridium perfringens*, and spores of *Clostridium perfringens*, using the method of analysis in BS EN ISO 14189:2016 entitled “Water quality — Enumeration of *Clostridium perfringens* — Method using membrane filtration (ISO 14189:2013)” (ISBN 978 0 580 92184 1), as amended by a corrigendum issued on 31st August 2016;
- (b) in the case of coliform bacteria, using the method of analysis in—
  - (i) BS EN ISO 9308-1:2014+A1:2017 entitled “Water quality — Enumeration of *Escherichia coli* and coliform bacteria. Part 1: Membrane filtration method for waters with low bacterial background flora (ISO 9308-1:2014)” (ISBN 978 0 580 92379 1) published by the BSI on 31st October 2014, as amended on 28th February 2017, or
  - (ii) BS EN ISO 9308-2:2014 entitled “Water quality — Enumeration of *Escherichia coli* and coliform bacteria. Part 2: Most probable number method” (ISBN 978 0 580 84023 4) published by the BSI on 30th November 2013, as amended by a corrigendum issued on 30th June 2014;
- (c) in the case of each of the other indicator parameters, using a method of analysis that complies with Section 3.

### **Clostridium perfringens**

**51.** In a case where a food authority determines that a sample of water contains any *Clostridium perfringens*, or spores of *Clostridium perfringens*, the food authority must investigate the water supply to determine whether there is any potential danger to human health arising from the presence in the water of pathogenic microorganisms.

### **Uncertainty of measurement**

**52.** A food authority must not use the uncertainty of measurement percentage specified in the second column of the table in Section 4 (which is concerned with whether a method of analysis complies with minimum performance characteristics) as an additional tolerance when determining whether the concentration of a parameter specified in the first column of the table in Section 1 in a sample of water exceeds the concentration for that parameter specified in the second column of the table in Section 1.

## *SECTION 3*

### *Method of analysis*

#### **Method of analysis**

- 53.** In relation to a parameter specified in the first column of the table in Section 1—
- (a) where there is a method of analysis that meets minimum performance characteristics that can be used by a food authority to analyse a sample for the purpose of making a determination in relation to that parameter under paragraph 50, the food authority must analyse the sample using that method of analysis (or using any one of them in a case where more than one method of analysis meets minimum performance characteristics);
  - (b) where there is no such method of analysis, the food authority must analyse a sample under paragraph 50 using the best available technique not entailing excessive cost.

#### **Minimum performance characteristics**

**54.—(1)** For the purpose of paragraph 53(a), a method of analysis for a parameter specified in the first column of the table in Section 4 (minimum performance characteristics for a method of

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analysis) is a method of analysis that complies with minimum performance characteristics if it is a method of analysis that—

- (a) is capable of measuring values equal to the parametric concentration of that parameter with a limit of quantification of 30% or less of the relevant parametric concentration,
- (b) has an uncertainty of measurement that does not exceed the percentage of the parametric concentration for the parameter specified in the second column of the table in Section 4, as read with any further provision relating to the calculation of the uncertainty of measurement specified in the third column of the table, and
- (c) in the case of total organic carbon, complies with the requirement specified in the fourth column of the table.

(2) For the purpose of sub-paragraph (1)(b), the performance criterion for uncertainty of measurement ( $k = 2$ ) for a parameter specified in the first column of the table in Section 4 is not less than the percentage specified in the second column of the table of the concentration or value for the parameter specified in the second column of the table in Section 1.

(3) A method of analysis for hydrogen ion concentration pH is a method of analysis that complies with minimum performance characteristics if it is a method of analysis that—

- (a) is capable of measuring hydrogen ion concentration pH equal to 4.5 pH with a limit of quantification of 30% or less, and
- (b) has an uncertainty of measurement that does not exceed 0.2 of a pH unit.

(4) For the purpose of sub-paragraph (3)(b), the performance criterion for uncertainty of measurement ( $k = 2$ ) for hydrogen ion concentration pH is not less than 0.2 of a pH unit.

(5) Unless otherwise specified in the third column of the table in Section 4, food authorities must estimate uncertainty of measurement for a parameter specified in the first column of the table at the level of the concentration for the parameter specified in the second column of the table in Section 1.

(6) Where a method of analysis that complies with the requirements of sub-paragraph (1) is used to determine whether the concentration of a parameter specified in the first column of the table in Section 4 exceeds the concentration specified for that parameter in the second column of the table in Section 1, the result of the analysis carried out using that method of analysis must be expressed using at least the same number of significant figures as the number of significant figures used to specify that parametric concentration in the second column of the table in Section 1.

### **Alternative minimum performance characteristics**

**55.**—(1) For the purpose of paragraph 53(a), until the end of 31st December 2019, a method of analysis for a parameter specified in the first column of the table in Section 5 (alternative minimum performance characteristics for a method of analysis that may be used until the end of 31st December 2019) is a method of analysis that complies with minimum performance characteristics if it is a method of analysis that—

- (a) is capable of measuring concentrations with a trueness not less than the percentage of the parametric concentration specified in the second column of the table,
- (b) is capable of measuring concentrations with a precision not less than the percentage of the parametric concentration specified in the third column of the table, and
- (c) has a limit of detection that does not exceed the percentage of the parametric concentration specified in the fourth column of the table.

(2) For the purpose of paragraph 53(a), until the end of 31st December 2019, a method of analysis for hydrogen ion concentration pH is a method of analysis that complies with minimum performance characteristics if it is a method of analysis that is capable of measuring hydrogen ion concentration pH with—

**Changes to legislation:** There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007. (See end of Document for details)

- (a) a trueness not less than 0.2 of a pH unit, and
- (b) a precision not less than 0.2 of a pH unit.

(3) “Precision” is the same for the purposes of this paragraph, and the table in Section 5, as it is in paragraph 20(2).

(4) “Limit of detection” is the same for the purposes of this paragraph, and the table in Section 5, as it is in paragraph 20(3).

#### SECTION 4

##### *Minimum performance characteristics for a method of analysis*

<i>Parameters</i>	<i>Uncertainty of measurement - relating to the percentage of the parametric concentration</i>	<i>Other requirements relating to the uncertainty of measurement</i>
Aluminium	25	
Ammonium	40	
Chloride	15	
Conductivity	20	
Iron	30	
Manganese	30	
Oxidisability	50	
Sodium	15	
Sulphate	15	
Total organic carbon	30	The uncertainty of measurement must be estimated at the level of 3 mg/l of the total organic carbon. BS EN 1484: 1997 entitled “Water analysis — Guidelines for the determination of total organic carbon (TOC) and dissolved organic carbon (DOC)” (ISBN 0 580 28372 0) published by the BSI on 15th October 1997 must be used.
Turbidity	30	The uncertainty of measurement must be estimated at the level of 1.0 nephelometric turbidity unit in accordance with BS EN ISO 7027-1:2016 entitled “Water quality — Determination of turbidity. Part 1: Quantitative methods (ISO 7027-1:”

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<i>Parameters</i>	<i>Uncertainty of measurement - percentage of the parametric concentration</i>	<i>Other requirements relating to the uncertainty of measurement</i>	<i>Other requirements to the of</i>
			2016) (ISBN 978 0 580 81961 2) published by the BSI on 31st July 2016.

### SECTION 5

*Alternative minimum performance characteristics for a method of analysis that may be used until the end of 31st December 2019*

<i>Parameters</i>	<i>Trueness - percentage of the parametric concentration</i>	<i>Precision - percentage of the parametric concentration</i>	<i>Limit of detection - percentage of the parametric concentration</i>
Aluminium	10	10	10
Ammonium	10	10	10
Chloride	10	10	10
Conductivity	10	10	10
Iron	10	10	10
Manganese	10	10	10
Oxidisability	25	25	10
Sodium	10	10	10
Sulphate	10	10	10
Turbidity	25	25	25

## PART 10

### Delegation of tasks by a food authority

#### SECTION 1

##### *Delegation of tasks*

#### **Delegation**

**56.**—(1) A food authority may delegate a task specified in the first column of the table in Section 2 (tasks that may be delegated) on an one-off or occasional basis or for such duration as may, from time to time, be agreed between the food authority and the person to whom the task is to be delegated.

(2) Any arrangement entered into under sub-paragraph (1) must provide that the delegate must comply with any provision in this Schedule relating to the exercise of that task, including any provision relating to—

- (a) the taking of samples,

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- (b) the frequency (if relevant, taking into account the duration of the arrangement) at which the samples are to be taken,
  - (c) the method of analysis that must be used to analyse samples, including any minimum performance characteristics that apply to the selection of a method of analysis,
  - (d) the calculation of the limit of detection,
  - (e) the use of uncertainty of measurement percentages,
  - (f) the validation and documenting of the methods of analysis used, and
  - (g) the use of quality management practices.
- (3) In relation to a task specified in the first column of the table in Section 2 for which there is an entry in the second column of the table, any arrangement entered into under sub-paragraph (1) must provide that—
- (a) the food authority must, where specified in the second column of the table, provide the delegate with the instructions needed to carried out the task, and
  - (b) the delegate must carry out the delegated task on the basis specified in the second column of that table.
- (4) A food authority must not enter into an arrangement under sub-paragraph (1) unless—
- (a) it is satisfied that the task will be carried out promptly by a person competent to perform it, and
  - (b) it has made arrangements with the delegate to ensure that—
    - (i) where the result of an analysis indicates that the concentration or value of any parameter has been exceeded, the delegate will communicate the result of the analysis to the food authority immediately after determining the result, and
    - (ii) in every other case, the delegate will communicate the result of the analysis to the food authority within 28 days beginning with the day after the day on which it has determined the result.

## SECTION 2

### *Tasks that may be delegated*

<i>Task that may be delegated</i>	<i>Basis of delegation (where relevant)</i>
The task of taking samples under paragraph 4 of all waters in a food authority's area to which this Schedule applies or of such of those waters as are specified in the arrangement	
The task of taking samples under paragraph 5 of all waters in a food authority's area to which this Schedule applies or of such of those waters as are specified in the arrangement	
The task of analysing samples of water under paragraph 7(1) (microbiological parameters)	
The task of analysing samples of water under paragraph 8(1) (chemical parameters)	
The task of analysing samples of water under paragraph 13 (other parameters)	The food authority must provide the delegate with instructions relating to the identity of the property, element, substance or organism that is

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<i>Task that may be delegated</i>	<i>Basis of delegation (where relevant)</i>
	to be checked and the delegate must analyse the samples in accordance with those instructions.
The task of analysing samples of water under paragraph 25 (radon)	
The task of taking an extra sample, or extra samples, of water under paragraph 26(3) (radon)	<p>In a case where the food authority has provided general instructions to the delegate in relation to the application of paragraph 26(3) concerning the number of samples to be taken and, in a case where more than one extra sample may need to be taken, the period during which extra samples are to be taken (“the specified matters”), the delegate must take an extra sample, or extra samples, in accordance with those instructions.</p> <p>In a case where the food authority has not provided general instructions to the delegate in relation to the specified matters, the food authority must provide the delegate with specific instructions concerning those matters at the time an extra sample falls to be taken under paragraph 26(3) and the delegate must take the samples in accordance with those instructions.</p>
The task of analysing an extra sample, or extra samples, of water under paragraph 26(3) (radon)	
The task of analysing samples of water under paragraph 31 (tritium)	
The task of taking an extra sample, or extra samples, of water under paragraph 32(2) (tritium)	<p>In a case where the food authority has provided general instructions to the delegate in relation to the application of paragraph 32(2) concerning the number of samples to be taken and, in a case where more than one extra sample may need to be taken, the period during which extra samples are to be taken (“the specified matters”), the delegate must take an extra sample, or extra samples, in accordance with those instructions.</p> <p>In a case where the food authority has not provided general instructions to the delegate in relation to the specified matters, the food authority must provide the delegate with specific instructions concerning those matters at the time an extra sample falls to be taken under paragraph 32(2) and the delegate must take the samples in accordance with those instructions.</p>



<i>Task that may be delegated</i>	<i>Basis of delegation (where relevant)</i>
The task of analysing an extra sample, or extra samples, of water under paragraph 32(2)(a) and (b) (tritium)	
The task of measuring gross alpha activity and gross beta activity in a sample under paragraph 32(2)(c)	
The task of analysing samples of water under paragraph 32(2)(d) (relating to the determination of the presence of artificial radionuclides in the water), and the taking of such extra sample, or extra samples, of the water as may be needed for that purpose	
The task of analysing samples of water under paragraph 38(2) (screening by determining gross alpha activity)	
The task of analysing samples of water under paragraph 38(5) (relating to the determination of the presence and concentration of certain radionuclides in the water), and the taking of such extra sample, or extra samples, of the water as may be needed for that purpose	The food authority must provide the delegate with instructions specifying the radionuclides in the sample [ <sup>F78</sup> for which] analysis must be carried out by the delegate and the delegate must analyse the samples in accordance with those instructions.
The task of analysing samples of water under paragraph 39(2) (screening by determining gross beta activity)	
The task of analysing samples of water under paragraph 39(5) (relating to the determination of the presence and concentration of certain radionuclides in the water) and the taking of such extra sample, or extra samples, of the water as may be needed for that purpose	The food authority must provide the delegate with instructions specifying the radionuclides in the sample [ <sup>F78</sup> for which] analysis must be carried out by the delegate and the delegate must analyse the samples in accordance with those instructions.
The task of analysing samples of water under paragraph 40(2) (screening based on analysis relating to one radionuclide)	
The task of analysing samples of water under paragraph 40(5) (relating to the determination of the presence and concentration of certain radionuclides in the water) and taking such extra sample, or extra samples, of the water as may be needed for that purpose	The food authority must provide the delegate with instructions specifying the radionuclides in the sample [ <sup>F78</sup> for which] analysis must be carried out by the delegate and the delegate must analyse the samples in accordance with those instructions.
The task of analysing samples of water under paragraph 41(2) (screening based on analyses relating to more than one radionuclide)	
The task of analysing samples of water under paragraph 41(5) (relating to the determination of the presence and concentration of certain radionuclides in water) and taking such extra	The food authority must provide the delegate with instructions specifying the radionuclides in the sample [ <sup>F78</sup> for which] analysis must be carried out by the delegate and the delegate must

**Changes to legislation:** There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007. (See end of Document for details)

<i>Task that may be delegated</i>	<i>Basis of delegation (where relevant)</i>
sample, or extra samples, of the water as may be needed for that purpose	analyse the samples in accordance with those instructions.
The task of analysing samples of water under paragraph 43(1) (relating to the determination of the presence, and concentration of, certain radionuclides in water)	The food authority must provide the delegate with instructions specifying the radionuclides in the sample [ <sup>F78</sup> for which] analysis must be carried out by the delegate and the delegate must analyse the samples in accordance with those instructions.
The task of carrying out a paragraph 45 determination (relating to indicative dose)	
The task of taking an extra sample, or extra samples of water under paragraph 46(3) (further sampling required following an indicative dose determination)	In a case where the food authority has provided general instructions to the delegate in relation to the application of paragraph 46(3) concerning the number of samples to be taken and, in a case where more than one extra sample may need to be taken, the period during which extra samples are to be taken (“the specified matters”), the delegate must take an extra sample, or extra samples, in accordance with those instructions.  In a case where the food authority has not provided general instructions to the delegate in relation to the specified matters, the food authority must provide the delegate with specific instructions concerning those matters at the time an extra sample falls to be taken under paragraph 46(3) and the delegate must take the samples in accordance with those instructions.
The task of analysing an extra sample, or extra samples, of water under paragraph 46(3)	
The task of analysing samples of water under paragraph 50(1) (indicator parameters)	

**Textual Amendments**

**F78** Words in Sch. 12 Pt. 10 substituted (29.3.2019) by [The Environment, Food and Rural Affairs \(Miscellaneous Amendments etc.\) Regulations 2019 \(S.I. 2019/526\)](#), regs. 1(2), **27(2)(c)**

**PART 11**

**Remedial action**

**Remedial action**

**57.—**(1) If, taking into account the provisions of this Schedule, a food authority determines that water in its area to which this Schedule applies contains a parameter specified in the first column

of the table in Part 4 of Schedule 2 that exceeds (or is to be considered as exceeding) the activity concentration or value specified in the second column of the table (as measured by reference to the unit of measurement specified in the third column of the table), the food authority must—

- (a) immediately investigate the non-compliance in order to identify the cause,
  - (b) assess whether the non-compliance poses a risk to human health that requires action,
  - (c) require the proprietor of the food business bottling the water to take remedial action as soon as possible to restore the quality of the water if the authority considers that it is necessary for such action to be taken to protect human health,
  - (d) notify the general public of the risks and remedial action taken, and
  - (e) advise the general public on any additional precautionary measures that may be needed for the protection of human health in respect of radioactive substances.
- (2) Sub-paragraph (1)(a) and (b) do not apply where paragraph 26(2) applies.]

[<sup>F79</sup>SCHEDULE 13

Regulation 22

Application and modification of provisions of the Act

**Textual Amendments**

**F79** Sch. 13 inserted (6.4.2018) by [The Natural Mineral Water, Spring Water and Bottled Drinking Water \(England\) \(Amendment\) Regulations 2018 \(S.I. 2018/352\)](#), reg. 1(1), **Sch. 2**

<i>Provision of the Act</i>	<i>Modifications</i>
Section 2 (extended meaning of “sale” etc.)	In subsection (1), for “this Act” substitute “the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007”.  In subsection (2), for “This Act” substitute “The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007”.
Section 3 (presumptions that food intended for human consumption)	In subsection (1), for “this Act” substitute “the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007”.
Section 10(1) and (improvement notices)	(2) For subsection (1), substitute— “(1) If an authorised officer of an enforcement authority has reasonable grounds for believing that a person is failing to comply with any provision specified in subsection (1A) or is carrying out either a fluoride removal treatment or an ozone-enriched air treatment that has a disinfectant action, the authorised officer may, by a notice served on that person (in this Act 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;

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<i>Provision of the Act</i>	<i>Modifications</i>
	<ul style="list-style-type: none"> <li>(c) specify the measures which, in the officer’s opinion, the person must take in order to secure compliance; and</li> <li>(d) require the person to take those measures, or measures that are at least equivalent to them, within such period (not being less than 14 days) as may be specified in the notice.</li> </ul>
	<p>(1A) The provisions referred to in subsection (1) are—</p> <ul style="list-style-type: none"> <li>(a) any of regulations 4 to 15 of the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007; and</li> <li>(b) any of the following provisions of <a href="#">Commission Regulation (EU) No 115/2010</a> laying down the conditions for use of activated alumina for the removal of fluoride from natural mineral waters and spring waters— <ul style="list-style-type: none"> <li>(i) Article 1(2) (requirement that fluoride removal treatment must be performed in accordance with the technical requirements set out in the Annex to <a href="#">Commission Regulation (EU) No 115/2010</a>);</li> <li>(ii) the first sentence of Article 2 (requirement that the release of residues into natural mineral water or spring water as a result of fluoride removal treatment be as low as technically feasible according to best practices and not pose a risk to public health);</li> <li>(iii) the second sentence of Article 2 (requirement for operators to implement and monitor the critical processing steps set out in the Annex to <a href="#">Commission Regulation (EU) No 115/2010</a>);</li> <li>(iv) Article 3(1) (requirement that the application of any fluoride removal treatment be notified to the competent authorities at least three months prior to use); and</li> <li>(v) Article 4 (requirement that the label on natural mineral water or spring water subjected to fluoride removal treatment include specified information in proximity to the statement of the analytical composition).”.</li> </ul> </li> </ul>
Section 20 (offences due to fault of another person)	For “any of the preceding provisions of this Part” substitute “section 10(2), as applied by regulation 22 of, and Schedule 13 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007”.
Section 21(1) and (5) (defence of due diligence)	In subsection (1), for “any of the preceding provisions of this Part (in this section referred to as “the relevant provision”)” substitute “section 10(2), as applied by regulation 22 of, and Schedule 13 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007”.

<i>Provision of the Act</i>	<i>Modifications</i>
Section 29 (procurement of samples)	<p>After “under section 32 below”, insert “as applied and modified by regulation 22 of, and Schedule 13 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007”.</p> <p>In paragraph (d), for the words from “this Act” to “under it” substitute “the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007”.</p>
Section 30(6) and (8) (which relates to evidence of certificates given by a food analyst or examiner)	<p>In subsection (8), for “this Act” substitute “the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007”.</p>
Section 32(1) to (7) (powers of entry)	<p>In subsection (1), for paragraphs (a) to (c) substitute—</p> <p>“(a) subject to paragraph (c), to enter any premises within the authority’s area for the purpose of ascertaining whether there is, or has been, on the premises a contravention of any of the following provisions of <a href="#">Commission Regulation (EU) No 115/2010</a> laying down the conditions for use of activated alumina for the removal of fluoride from natural mineral waters and spring waters—</p> <ul style="list-style-type: none"><li>(i) Article 1(2) (requirement that fluoride removal treatment must be performed in accordance with the technical requirements set out in the Annex to <a href="#">Commission Regulation (EU) No 115/2010</a>);</li><li>(ii) the first sentence of Article 2 (requirement that the release of residues into natural mineral water or spring water as a result of fluoride removal treatment be as low as technically feasible according to best practices and not pose a risk to public health);</li><li>(iii) the second sentence of Article 2 (requirement for operators to implement and monitor the critical processing steps set out in the Annex to <a href="#">Commission Regulation (EU) No 115/2010</a>);</li><li>(iv) Article 3(1) (requirement that the application of any fluoride removal treatment be notified to the competent authorities at least three months prior to use); and</li><li>(v) Article 4 (requirement that the label on natural mineral water or spring water subjected to fluoride removal treatment include specified information in proximity to the statement of the analytical composition); and</li></ul> <p>(b) to enter any business premises, whether within or outside the authority’s area, for the purpose of ascertaining whether there is on the premises any</p>

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<i>Provision of the Act</i>	<i>Modifications</i>
	evidence of any contravention within that area of any of the provisions set out in paragraph (a);
	(c) but any premises which are a private dwelling-house (whether in whole or part) may only be entered for the purposes of paragraph (a) on production of a warrant which authorises such entry and, unless the warrant provides otherwise, admission to any premises used wholly as a private dwelling-house shall not be demanded;”.
	For subsection (2) substitute—
	“(2) If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry into any private dwelling-house for any purpose mentioned in subsection (1)(a) the justice may, by signed warrant, authorise the authorised officer to enter the private dwelling-house, if necessary by reasonable force.”.
	In subsection (6)(a), for the words from “this Act” to “under it” substitute “the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007”.
Section 33 (obstruction etc. of officers)	In subsection (1), for “this Act” in each place those words occur substitute “the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007”.
Section 35(1) and (2) (punishment of offences)	In subsection (1), after “section 33(1) above” insert “, as applied and modified by regulation 22 of, and Schedule 13 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007,”.
	After subsection (1), insert—
	“(1A) A person guilty of an offence under section 10(2), as applied by regulation 22 of, and Schedule 13 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007, is liable, on summary conviction, to a fine.”.
	In subsection (2), for “any other offence under this Act” substitute “an offence under section 33(2), as applied by regulation 22 of, and Schedule 13 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007,”.
Section 36 (offences by bodies corporate)	In subsection (1), for “this Act” substitute “section 10(2), as applied by regulation 22 of, and Schedule 13 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007,”.
Section 36A(offences by Scottish partnerships)	For “this Act” substitute “section 10(2), as applied by regulation 22 of, and Schedule 13 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007,”.
Section 37(1) and (6) (appeals)	For subsection (1) substitute—
	“(1) Any person who is aggrieved by a decision of an authorised officer of an enforcement authority to serve an improvement notice

<i>Provision of the Act</i>	<i>Modifications</i>
	<p>under section 10(1), as applied and modified by regulation 22 of, and Schedule 13 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007, may appeal to the First-tier Tribunal.”</p> <p>In subsection (6)—</p> <p>(a) for “(3) or (4)” substitute “(1)”; and</p> <p>(b) in paragraph (a), for a “magistrates’ court or to the sheriff” substitute “the First-tier Tribunal”.</p>
Section 39 (appeals against improvement notices)	<p>For subsection (1) substitute—</p> <p>“(1) On an appeal against an improvement notice served under section 10(1), as applied and modified by regulation 22 of, and Schedule 13 to, the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007, the First-tier Tribunal may either cancel or affirm the notice and, if it affirms it, may do so either in its original form or with such modifications as the First-tier Tribunal may in the circumstances think fit.”</p> <p>In subsection (3), omit “for want of prosecution”.</p>
Section 44 (protection of officers acting in good faith)	<p>For “this Act” in each place those words occur substitute “the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007”.]</p>

## 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 (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 (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

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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*);



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- (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.

**Changes to legislation:**

There are currently no known outstanding effects for the The Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007.