

## EUROPEAN COMMUNITIES (NATURAL MINERAL WATERS) REGULATIONS 1986

I, JOHN BRUTON, Minister for Industry, Trade, Commerce and Tourism, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving effect to Council Directive No. 80/777/EEC of the 15th day of July, 19801, hereby make the following regulations:

### REG 1

1. These Regulations may be cited as the European Communities (Natural Mineral Waters) Regulations, 1986.

### REG 2

2. (1) In these Regulations—

"approved examiner" means such person as may be appointed for the purpose of these Regulations by the Minister for Health;

"authorised officer" means—

( a ) an officer of the Minister,

( b ) a person designated by the Minister for Health, or

( c ) a person designated by the responsible authority,

who is authorised in writing by the Minister to be an authorised officer for the purposes of these Regulations;

"the Council Directive" means Council Directive No. 80/777/EEC of the 15th day of July, 19801;

"Member State" means a member state of the European Economic Community;

"the Minister" means the Minister for Industry, Trade, Commerce and Tourism;

1 OJ No. L229/1 of 30.8.80.

"natural mineral waters" means waters which comply with the provisions of Article 1 of the Council Directive;

"the responsible authority" means the Institute for Industrial Research and Standards.

(2) A word or expression that is used in these Regulations and is also used in the Council Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Council Directive.

### REG 3

3. (1) A person shall not market or exploit water as natural mineral water unless such water complies with the provisions of the Council Directive and of these Regulations.

(2) A person who contravenes paragraph (1) of this Regulation shall be guilty of an offence.

### REG 4

4. These Regulations shall not apply to the waters or natural mineral waters specified in Article 1.3 of the Council Directive or to natural mineral waters which are intended for export to a country other than a Member State or an overseas department of the Republic of France.

REG 5

5. A person shall not exploit a natural mineral water spring or bottle its waters other than in accordance with the provisions of Annex II to the Council Directive.

REG 6

6. Natural mineral water in its state at source may not be the subject of any addition or treatment other than the additions or treatments specified in Article 4.1 of the Council Directive.

REG 7

7. Any containers used for packaging natural mineral waters shall be designed so that they can be sealed in such a manner as to avoid any adulteration or contamination of the waters contained therein.

REG 8

8. (1) A person shall not advertise or sell a natural mineral water unless the labelling, packaging and advertising of the natural mineral water comply with the provisions of Articles 7, 8 and 9 of the Council Directive.

(2) The indication of particulars on the labelling or packaging of a natural mineral water in pursuance of the Council Directive and these Regulations shall be in a language easily understood by purchasers of the natural mineral water.

REG 9

9. Article 4.1 of the Council Directive shall not be construed in such a manner as to prohibit in any way the use of natural mineral waters in the manufacture of soft drinks.

REG 10

10. (1) An authorised officer may at all reasonable times enter—  
(a) premises or lands in which he has reasonable grounds for believing that any natural mineral waters are kept, sold, exploited, treated or prepared for sale,

(b) any railway wagon, vehicle, ship, vessel or aircraft in which he has reasonable grounds for believing that any natural mineral waters are being transported for sale or kept for sale,  
and there or at any other place—

(i) inspect and take copies of or extracts from any books, records or other documents which he finds in the course of his inspection, and

(ii) (I) make such examinations, tests and inspections, and  
(II) take such samples of any natural mineral waters or articles used or intended to be used in the preparation of natural mineral waters which he finds in the course of his inspection,  
as he may consider appropriate for the purposes of these Regulations and the Council Directive.

- (2) A person in charge of premises or lands or of a railway wagon, vehicle, ship, vessel or aircraft shall—
- (a) afford to an authorised officer such facilities and assistance as are reasonably necessary to enable the officer to perform his functions under these Regulations,
  - (b) produce to an authorised officer any books, documents or other records which he may reasonably require,
  - (c) give to an authorised officer any information which he may reasonably require regarding—
    - (i) any natural mineral waters on the premises or lands or in the railway wagon, vehicle, ship, vessel or aircraft, or
    - (ii) any books, documents or other records produced to him pursuant to this Regulation.
- (3) Where a sample is taken pursuant to this Regulation, the authorised officer concerned shall divide the sample into not more than four approximately equal parts each of which he shall mark in such a way as to identify it as a part of the sample taken by him and shall send one or more of such parts to the approved examiner for examination and testing.
- (4) In proceedings for an offence under these Regulations, the result of any test, examination or analysis of, or report on, a sample taken pursuant to this Regulation shall not be adduced unless before the proceedings were instituted one of the parts into which the sample was divided pursuant to this Regulation was left with, or transmitted to, the defendant.
- (5) An authorised officer shall be furnished with a certificate of his appointment as an authorised officer and when exercising any powers conferred on an authorised officer by this Regulation shall, if so requested by a person affected, produce the certificate for inspection by the person.
- (6) A person who obstructs or interferes with an authorised officer in the course of exercising a power conferred on him by this Regulation or fails or refuses to comply with a request made by, or to answer a question asked by, an authorised officer pursuant to this Regulation shall be guilty of an offence.

## REG 11

11. (1) A person guilty of an offence under Regulation 3 of these Regulations shall be liable upon summary conviction to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months, or to both such fine and such imprisonment.
- (2) A person guilty of an offence under Regulation 10 of these Regulations shall be liable upon summary conviction to a fine not exceeding £750.
- (3) A person who fails to comply with any provision of these Regulations (other than Regulation 3 or Regulation 10) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

REG 12

12. Where an offence under these Regulations is committed by a body corporate and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other officer of the body or any person who was purporting to act in any such capacity, he, as well as the body, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

REG 13

13. An offence under these Regulations may be prosecuted by the Minister.

REG 14

14. The provisions of the European Communities (Labelling, Presentation and Advertising of Foodstuffs) Regulations, 1982 (S.I. No. 205 of 1982), in so far as those Regulations require the country of origin to be indicated, shall not apply to natural mineral waters which are produced in and are imported into the State from, another Member State.

GIVEN under my Official Seal, this 20th day of January, 1986.  
JOHN BRUTON,  
Minister for Industry, Trade,  
Commerce and Tourism.

EXPLANATORY NOTE.

The purpose of the Regulations is to give legal effect to Council Directive No. 80/777/EEC on the approximation of the laws of the Member States relating to the exploitation and marketing of natural mineral waters. In effect, the Regulations concern the definition of natural mineral water and the conditions for the exploitation and marketing thereof. The Regulations should be read in conjunction with the Council Directive.