



Health Service Executive,  
Environmental Health Service,  
The Ramparts,  
Dundalk,  
Co. Louth

Phone: [REDACTED]  
E-Mail: [REDACTED]

23/10/2019

Mr Pdraig McEneaney,  
Celtic Pure Unlimited Company,  
Corcreagh,  
Shercock PO,  
Co. Monaghan

**S. I No. 117 of 2010:  
EUROPEAN COMMUNITIES (OFFICIAL CONTROL OF FOODSTUFFS) REGULATIONS  
2010  
CLOSURE ORDER**

To: Mr Pdraig McEneaney, Celtic Pure Unlimited Company, Corcreagh, Shercock PO, Co. Monaghan

I, [REDACTED] being an authorised officer of the **Health Service Executive** under the Food Safety Authority of Ireland Act, 1998 and S. I. 117 of 2010, and in exercise of the powers conferred on me by Regulation 19 of S.I 117 of 2010, hereby direct that the food business cease operating or the premises be closed as specified in Part 1 of the Schedule be closed with immediate effect until the earliest of: -

- (i) an Order to contrary effect by a Court of competent jurisdiction; or
- (ii) further written direction by the **Health Service Executive**

I make this order being of the opinion that there is failure to comply with food legislation for the particular reasons set out in Part 2 of the Schedule and of the opinion that **all or part** of the food business to which the order relates should cease operating or **all or part** of the premises to which the order relates should be closed as specified in Part 1 of the Schedule.

**Schedule**

## **Part 1 Food business/Premises**

The premises occupied by **Mr Padraig McEneaney, Celtic Pure Unlimited Company at Corcreagh, Shercock PO, Co. Monaghan and name trading as Celtic Pure**

This closure order requires  
(Tick one box only)

*All the food business to cease operating/all the premises to be closed* **X**

*Or*

*Part of the food business to cease operating*

*Or*

*Part of the premises be closed*   
(Specify which part of the premises must close)

## **Part 2 Particular reasons for making of the Order**

### **Regulation (EC) No 178/2002, Article 14**

1. Food shall not be placed on the market if it is unsafe.
2. Food shall be deemed to be unsafe if it is considered to be: (a) injurious to health; (b) unfit for human consumption""""".
4. In determining whether any food is injurious to health, regard shall be had:  
  
(c) to the particular health sensitivities of a specific category of consumers where the food is intended for that category of consumers.
6. Where any food which is unsafe is part of a batch, lot or consignment of food of the same class or description, it shall be presumed that all the food in that batch, lot or consignment is also unsafe, unless following a detailed assessment there is no evidence that the rest of the batch, lot or consignment is unsafe.

### **S.I. No 747 of 2007, Part 5**

(1) A food business operator is guilty of an offence if the food business operator places unsafe food on the market or otherwise contravenes Article 14 of the EC Regulation.

## **Non Compliance**

Batches of bottled water which tested positive for the presence of *Pseudomonas aeruginosa*, *E. coli* or *Enterococci* have been placed on the market contrary to the requirements of Part 3 and 4 of European Union (Natural Mineral Waters, Spring Waters and Other Waters in Bottles or Containers) Regulations 2016 ( S.I . No 282 of 2016). The presence of such bacteria renders this water unsafe and non compliant.

*Pseudomonas aeruginosa* is a risk for the severely immunocompromised sub-population found in certain areas of hospitals like intensive care units.

When non compliant sample results were obtained by the Food Business Operator for a batch of bottled waters, a detailed assessment was not carried out to demonstrate the remainder of the batch was safe.

The controls within the Food Safety Management System were not working as evidenced by the detection of *Pseudomonas aeruginosa*, *E. coli* or *Enterococci*.

### **Regulation (EC) No 178/2002, Article 17**

1. Food and feed business operators at all stages of production, processing and distribution within the businesses under their control shall ensure that foods or feeds satisfy the requirements of food law which are relevant to their activities and shall verify that such requirements are met.

### **S.I. No 747 of 2007, Part 7**

A food business operator is guilty of an offence if

(a) the food business operator fails to ensure (in accordance with Article 17 of the EC Regulation) that a food satisfies the relevant requirements of food law.

### **Non Compliance**

Batches of bottled water which tested positive for the presence of *Pseudomonas aeruginosa*, *E. coli* or *Enterococci* were placed on the market contrary to the requirements of Part 3 and 4 of European Union (Natural Mineral Waters, Spring Waters and Other Waters in Bottles or Containers) Regulations 2016 ( S.I. No 282 of 2016). The presence of such bacteria demonstrates that the relevant requirements of food law were not met.

### **Regulation (EC) No 178/2002, Article 18**

1. The traceability of food, feed, food-producing animals, and any other substance intended to be, or expected to be, incorporated into a food or feed shall be established at all stages of production, processing and distribution.

3. Food and feed business operators shall have in place systems and procedures to identify the other businesses to which their products have been supplied. This information shall be made available to the competent authorities on demand.

### **S.I. No 747 of 2007, Part 8**

A food business operator is guilty of an offence if the food business operator fails

(c) to have in place systems and procedures (including documentation) which allow for information on provenance and destination of foods to be made available to the official agency on demand.

## **Non Compliance**

An inventory of the stock present in the warehouse was requested on several occasions and was not provided.

Laboratory analysis reports were not provided on demand when requested.

A complete version of production records was not available on demand when requested.

## **Regulation (EC) No 178/2002, Article 19**

1. If a food business operator considers or has reason to believe that a food which it has imported, produced, processed, manufactured or distributed is not in compliance with the food safety requirements, it shall immediately initiate procedures to withdraw the food in question from the market where the food has left the immediate control of that initial food business operator and inform the competent authorities thereof. Where the product may have reached the consumer, the operator shall effectively and accurately inform the consumers of the reason for its withdrawal, and if necessary, recall from consumers products already supplied to them when other measures are not sufficient to achieve a high level of health protection.

3. A food business operator shall immediately inform the competent authorities if it considers or has reason to believe that a food which it has placed on the market may be injurious to human health. Operators shall inform the competent authorities of the action taken to prevent risks to the final consumer and shall not prevent or discourage any person from cooperating, in accordance with national law and legal practice, with the competent authorities, where this may prevent, reduce or eliminate a risk arising from a food.

4. Food business operators shall collaborate with the competent authorities on action taken to avoid or reduce risks posed by a food which they supply or have supplied.

## **S.I. No 747 of 2007, Part 9**

(1) A food business operator is guilty of an offence if the food business operator fails to

(a) initiate procedures to withdraw a food,

(b) ensure that a food is withdrawn,

(e) recall products from consumers, in accordance with Article 19(1) of the EC Regulation.

9. (3) A food business operator is guilty of an offence if the food business operator

(a) fails to immediately inform the Authority or the official agency of any grounds for believing that a food which it has placed on the market may be injurious to human health,

(b) fails to inform the Authority or the official agency of the action taken to prevent risks to the final consumer

9. (4) A food business operator is guilty of an offence if the food business operator fails or refuses to collaborate with the Authority or the official agency, or both, on action taken to avoid or reduce risks posed by a food, in accordance with Article 19(4) of the EC Regulation.

9. (5) A food business operator is guilty of an offence if the food business operator fails in any other way

to respond to an actual or potential breach of food safety requirements in accordance with the provisions of Article 19 of the EC Regulation.

### **Non Compliance**

Procedures were not put into place to withdraw contaminated bottled water from the market and consumers were not informed of the risks.

The competent authority was not informed that product which may be injurious to health had been placed on the market. Laboratory analysis reports detailing non compliant results were not recorded in the Food Safety Management System. These results were not disclosed to the competent authority.

### **REGULATION (EC) No 852/2004, Article 5**

1. Food business operators shall put in place, implement and maintain a permanent procedure or procedures based on the HACCP principles.

2. The HACCP principles referred to in paragraph 1 consist of the following:

(e) establishing corrective actions when monitoring indicates that a critical control point is not under control.

### **S.I. No 369 of 2006, Part 5**

(1) A food business operator who fails to comply with the requirements of Article 5(1) and (2) of the EC Regulation is guilty of an offence.

### **Non Compliance**

Laboratory analysis results showed non compliant microbiological results for bottled waters that had undergone Ultra Violet treatment to remove microbiological contamination. This demonstrated that the critical control point of Ultra Violet treatment was not under control and necessary corrective actions were not implemented.

### **European Union (Natural Mineral Waters, Spring Waters and Other Waters in Bottles or Containers) Regulations 2016**

#### **S.I. No. 282 of 2016**

16. (1) A person shall not place on the market other waters unless

(a) they are wholesome and clean,

(b) the parametric values set down in Annex I to Council Directive 98/83/EC are complied with at the point at which the waters are put into bottles or containers

16. (2) For the purposes of paragraph (1), other waters shall be regarded as wholesome and clean if they

(a) are free from any micro-organisms and parasites and from any substances which, in numbers or concentrations, constitute a potential danger to human health,

(b) meet the minimum requirements set out in Parts A and B of Annex I to Council Directive 98/83/EC

(c) meet the other requirements of this Part.

16 (3) In taking measures to apply the provisions of this Part, a person engaged in the production, processing or distribution of bottled waters, or the Authority, or an official agency, shall not allow, whether directly or indirectly

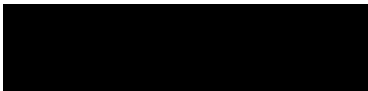
(a) any deterioration in the existing quality of water intended for human consumption, insofar as that is relevant for the protection of human health.


### **Non Compliances**

Laboratory analysis reports showed non compliant microbiological results for bottled waters that were placed on the market.

Some of the parametric values set down in Annex I to Council Directive 98/83/EC had not been complied with which does or may pose a risk to human health.

*Dated this day: 23/10/2019*

Signed: 

  
*Authorised Officer*

*duly authorised by **Health Service Executive** for purposes of Regulation 19 of S. I. 117 of 2010.*

*Note: Under Regulation 19(5) of S.I. No. 117 of 2010, a person who is aggrieved by a Closure Order may, within the period of seven days beginning on the day on which the Closure Order is served on him or her, appeal against the Order to a Judge of the District Court in the District Court District in which the Order was served. Under Regulation 19(6) a person who appeals against a closure order or who applies for a direction suspending the application of the closure order under paragraph (4) shall at the same time notify the Authority or official agency of the appeal or the application and the grounds for the appeal or the application and the Authority or official agency shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal or the application.*

---