

EXECUTIVE NOTE TO

**THE NATURAL MINERAL WATER, SPRING WATER AND
BOTTLED DRINKING WATER (SCOTLAND) AMENDMENT
REGULATIONS 2010**

SSI 2010/89

The above instrument is made under powers conferred by sections 16(1), 17, 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. The instrument is subject to negative resolution procedure.

Policy Objectives

1. This instrument amends the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No.2) Regulations 2007 to put in place provisions relating to the enforcement of European Commission Regulation (EU) No 115/2010 (see attached PDF document) on the use of activated alumina treatment to remove fluoride from natural mineral water and spring water.
2. In addition, this instrument amends the 2007 Regulations to include more explicit statements on monitoring requirements for spring water and bottled drinking water for enforcement authorities. This is in response to a European Commission reasoned opinion that asserted that the current UK implementation of Council Directive 98/83/EC was not clear enough on this issue in that it simply cross-referred to the relevant EU provisions rather than transposing them in terms, a method of transposition which the Commission considered inadequate, given the nature of the EU provisions.

Consultation

3. A public consultation in Scotland was launched initially for a period of eight weeks from 30 November 2009 on a draft of the amending Instrument that contained enforcement powers for Commission Regulation (EU) No. 115/2010. This relatively short deadline was specified due to the tight EU coming into force deadline for this measure (20 days after publication in the EU Journal). This was however not considered to be an urgent issue for Scottish producers as the Agency was unaware of any UK producers of natural mineral water or spring water who remove, or need to remove, fluoride from their products. The amending Instrument was then re-issued on 13 January 2010, to all stakeholders who had received the initial draft, after the text transcribing monitoring requirements from Council Directive 98/83/EC was added, and two weeks were added to the original consultation deadline. The consultation concluded on 10 February 2010.
4. In the public consultation the Agency advised that it was understood that UK natural mineral waters and spring waters producers do not need to use activated

alumina treatment for the removal of fluoride and that the measure will not require enforcement authorities to carry out additional duties to those currently required by Regulation 16 of the Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) Regulations 2007. As such the Agency considered that these measures would have no impact on businesses or enforcement authorities. Consultees were invited to say if they disagreed with this position, and none did. Therefore a Regulatory Impact Assessment has not been drawn up.

5. No comments were received to the consultation in Scotland.

Financial Effects

6. A Regulatory Impact Assessment has not been produced for this instrument (as explained in paragraph 4). No impact on the private, public or voluntary sectors is foreseen.

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