

EXPLANATORY MEMORANDUM TO
THE NATURAL MINERAL WATER, SPRING WATER AND BOTTLED DRINKING
WATER (ENGLAND)(AMENDMENT) REGULATIONS 2011

2011 No. 451

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (Defra) and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 This Statutory Instrument has several functions. Firstly to make clear that languages other than English can be used in addition to English on bottled waters. Secondly to reflect machinery of Government changes which have moved responsibility for bottled water legislation in England from the Food Standards Agency (FSA) to Defra. Finally this Instrument will update a reference to the Veterinary Medicines Regulations.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Context**

4.1 This Instrument will amend the Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007 (S.I. 2007 No. 2785)(as amended), (“ the original Instrument”). With the relocation of food standards (non-safety) policy from FSA in England to Defra, certain functions carried out by the FSA are now being transferred by this Instrument to Defra, including recognition of non-EEA natural mineral waters and providing an option for appeal when recognition for a natural mineral water is not granted or is revoked.

4.2 Concerns raised by the Constitutional Affairs Committee of the Welsh assembly in April 2010 identified that the way that the original Instrument was written could make it illegal to state the sales description “natural mineral water” on a natural mineral water label in a language other than English. This was not the intention of the legislation so the Instrument will amend the original Instrument to make it clear that labelling in other languages in addition to English on bottled water labels is permitted.

4.3 The amending Instrument also updates a reference to the Veterinary Medicines Regulations 2005 which exempts water that has a marketing authorisation within the

meaning of those Regulations from complying with the original Instrument. The amending Instrument updates this reference so that it will refer to the Veterinary Medicines Regulations 2009.

5. Territorial Extent and Application

5.1 This amending Instrument applies to England only.

5.2 Equivalent legislation will be put into force in Scotland, Wales and Northern Ireland, although these amending Instruments will not include the machinery of Government changes as the FSA retains responsibility for bottled water policy in these parts of the UK.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 The original Instrument is being amended to reflect machinery of Government changes in England, moving overall responsibility for policy on bottled water from the FSA to Defra, update a reference to the Veterinary Medicines Regulations and clarify the legislative text so it is clear that labelling bottled waters in other languages in addition to English is permitted (addressing a concern first raised by the Welsh Assembly Constitutional Affairs Committee).

7.2 It is unlikely to be of any public interest. The change in responsibility for bottled water policy is not going to affect producers or the public. The change to remove any risk of interpreting labelling requirements so as prevent multilingual labelling is unlikely to affect producers or the public as additional labelling in languages other than English has always been considered acceptable practice.

- Consolidation

7.3 There are currently no plans to consolidate the original Instrument (as amended), although both of the European texts that this legislation implements are currently in the process of being, or being considered for, revision which it is expected would be implemented via a new standalone Instrument. This is unlikely to happen before 2013.

8. Consultation outcome

8.1 Defra consulted on the Instrument from 13 December 2010 for 6 weeks with a non-formal consultation. This shorter period of consultation was chosen as the amending Instrument is not expected to have any impact on producers, enforcement officers or the

public. Producers, trade associations, Local Authorities and consumer associations were contacted by e-mail to seek their opinion. The consultation was placed on the Defra website, which also contains a summary of responses.

(<http://www.defra.gov.uk/corporate/consult/bottled-water/index.htm>). Only one consultee responded and agreed with the amendments being made by the Instrument.

9. Guidance

9.1 No new guidance is being produced, although the changes to responsibility for policy on bottled water will be reflected in the existing guidance.

10. Impact

10.1 It is anticipated there will be no impact on business, charities or voluntary bodies as a result of this amending Instrument.

10.2 The impact on the public sector is zero.

10.3 An Impact Assessment has not been prepared for this instrument as no impact on the business, charity or voluntary sector is anticipated.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 No specific action has been taken regarding small businesses as the changes contained in the implementing Instrument are ones that will not be expected to have an effect on any size of business.

12. Monitoring & review

12.1 No monitoring or review processes are planned as this amending Instrument simply clarifies existing policy, reflects machinery of Government changes and updates a reference to the Veterinary Medicines Regulation.

13. Contact

Paul Nunn at the Department for Environment, Food, and Rural Affairs (Tel: 020 7276 4351 or email: paul.nunn@defra.gsi.gov.uk) can answer any queries regarding the instrument.