

## NOTICE TO STAKEHOLDERS

Since the end of the Implementation Period (IP)(1 January 2021), Directive 2009/54/EC <sup>1</sup> of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters (NMW) no longer applies in Great Britain (GB).

### **GB NMW for the EU market**

This means that from 1 January 2021, waters extracted from the ground of, and recognised in GB as NMW are classed as being extracted from the ground of a third country and are no longer authorised for import into the European Union as NMW, unless they are recognised as such by the responsible authority of a Member State. This is also the case for any non EU country waters recognised as NMW by GB.

Guidance was issued on 24 April 2020 by the Commission in this respect and is attached [here](#).

NMW producers in GB have been advised that all GB NMW have ceased to be recognised in the EU and EEA since the end of the IP and of the need to apply to a EU/EEA Member State for recognition if they wish to continue to place their product on the EU/EEA market.

### **EU NMW for the GB market**

From the 1 January 2021, waters extracted from the ground of, and recognised by EU and EEA Member States as NMW are classed as being extracted from the ground of a third country for the purposes of the GB market, unless they were already recognised as such in Scotland, England or Wales on IP completion day under reciprocal arrangements.

This notice is to confirm that legislation is coming into force in Scotland from 1 July 2021 to remove the reciprocal arrangements in relation to the recognition of NMW from EU and EEA member states. This is necessary in order for Scotland to be compliant with World Trade Organisation (WTO) rules and the Agreement on Technical Barriers to Trade (TBTA) now that the UK is no longer part of the EU but with the policy objective to minimise trade disruptions between WTO members as far as possible.

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<sup>1</sup> Directive 2009/54/EC [EUR-Lex - 32009L0054 - EN - EUR-Lex \(europa.eu\)](#)

The TBTA contains obligations on national treatment and a most-favoured nation (MFN) treatment of like products. The MFN obligation prohibits discrimination through technical regulations among like products imported from different countries. The national treatment obligation prohibits discrimination between domestic and imported like products.

In Scotland, the continued automatic recognition of EU and EEA NMW for a six month period from the end of the IP until 1 July 2021 provides for continuity and stability for businesses and consumers as far as possible. This also allows sufficient time for EU and EEA NMW producers to submit applications for recognition as required by our domestic regulations if they wish to continue to place their NMW directly on the market in Scotland after 1 July 2021. Food Standards Scotland, the Department for Environment, Food and Rural Affairs (Defra) in England and the Food Standards Agency (FSA) in Wales will soon publish details on how EU and EEA NMW producers can apply for recognition in GB.

Stakeholders may wish to note that currently both England and Wales have provisions in place which enable the continued recognition of EU and EEA waters beyond 1 July 2021. The UK Internal Market Act 2020, which came into force on 1 January 2021, contains provisions which mean that any good that meets regulatory requirements in one part of the UK can be sold in any other part, without having to adhere the relevant regulatory requirements in that other part. Consequently, even although Scotland will no longer recognise EU and EEA NMW placed directly onto the market in Scotland from 1 July 2021, any such waters imported into GB via England and Wales can continue to be sold on the market in Scotland under the terms of the UK Internal Market Act. This will remain the case until England and Wales cease to recognise EU and EEA produced NMW.

Any decision in this respect will be communicated separately by Defra in England and the FSA in Wales.

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