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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 170**

**The Bathing Waters (Scotland) Regulations 2008**

**PART 1**

**GENERAL PROVISIONS**

**Designation of bathing waters and determination of bathing season**

**3.—**(1) Subject to paragraph (3) the Scottish Ministers must establish and keep under annual review—

- (a) a list of the bathing waters designated under this regulation; and
- (b) the bathing season which relates to each bathing water.

(2) The Scottish Ministers must advise SEPA of the bathing waters that they have designated and the bathing season pertaining to each.

(3) The Scottish Ministers must—

- (a) designate an area of surface water as a bathing water if—
  - (i) they expect a large number of people to bathe there, having regard to past trends and infrastructure or facilities provided, or other measures taken, to promote bathing; and
  - (ii) permanent advice against bathing there has not been introduced; and
- (b) determine for each bathing water the period during which large number of bathers are expected there as the bathing season.

(4) Paragraph (3)(a) does not apply to any waters which are—

- (a) swimming pools;
- (b) spa pools; or
- (c) enclosed waters—
  - (i) subject to treatment such as disinfection;
  - (ii) used for therapeutic purposes; or
  - (iii) which are artificially created and are separated from surface water and groundwater.

(5) Before the start of the first bathing season in each calendar year, SEPA and the Scottish Ministers must publish on their websites, and in any other manner that they consider appropriate for the purpose of bringing them to the attention of persons likely to be affected—

- (a) the full list of bathing waters; and
- (b) a list of all the former bathing waters (as defined in regulation 8(9)),

and the Scottish Ministers must make notification of such publication in the Edinburgh Gazette.

(6) Where any of the circumstances referred to in paragraph (7) occur the Scottish Ministers must, in accordance with paragraphs (8) and (9), give notice of the extent of designation of the bathing water and the bathing season to—

- (a) the relevant local authority;

- (b) the relevant health board;
- (c) Scottish Water; and
- (d) SNH.

(7) The circumstances referred to in paragraph (6) are where:–

- (a) an area of surface water is designated as a bathing water for the first time under these Regulations;
- (b) a former bathing water, which ceased to be designated through its failure to meet the criteria set out in paragraph (3)(a)(i), is designated as a bathing water for the first time after it last ceased to be designated;
- (c) permanent advice against bathing has been withdrawn by SEPA in terms of regulation 10(3) and the former bathing water is to be designated as a bathing water for the first time after that advice has been withdrawn; or
- (d) an alteration is made to the duration of the bathing season at a designated bathing water.

(8) Notice required by paragraph (6) must be given before the appropriate date in any calendar year in respect of any circumstances which have occurred before that date and have not previously been notified.

(9) In paragraph (8), “the appropriate date” is the date in each calendar year from 2009 onwards which falls 32 days prior to the date on which SEPA or the Scottish Ministers first make publication on a website under paragraph (5) for that year.