

2012 No. 243

ENVIRONMENTAL PROTECTION

WATER

The Bathing Waters (Scotland) Amendment Regulations 2012

Made - - - - *30th August 2012*

Laid before the Scottish Parliament *3rd September 2012*

Coming into force - - *2nd October 2012*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the Bathing Waters (Scotland) Amendment Regulations 2012 and come into force on 2nd October 2012.

Amendment of the Bathing Waters (Scotland) Regulations 2008

2.—(1) The Bathing Waters (Scotland) Regulations 2008(b) are amended in accordance with paragraphs (2) to (5).

(2) In regulation 2 (interpretation) in the definition of “short-term pollution” for “does not normally” to the end substitute—

“—

- (a) has identified the causes of the contamination; and
- (b) does not normally expect the contamination to affect bathing water quality for more than 72 hours from when the bathing water is first affected”

(3) In regulation 8 (public information)—

- (a) in paragraph (1) for “available” substitute “promptly made available”;

(a) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section (2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(b) S.S.I. 2008/170.

- (b) for paragraph (1)(b) substitute—
 - “(b) where there is a bathing prohibition or advice against bathing—
 - (i) an indication of such in the form of the appropriate symbol contained in Part 1 of the Annex to Commission Implementing Decision 2011/321/EU establishing, pursuant to Directive 2006/7/EC of the European Parliament and of the Council, a symbol for information to the public on bathing water classification and any bathing prohibition or advice against bathing^(a) (“the Commission Decision”); and
 - (ii) the reasons for the bathing prohibition or advice against bathing;”;
- (c) in paragraph (1)(d) for “its bathing water profile indicates” substitute “SEPA considers”;
- (d) for paragraph (3) substitute—
 - “(3) The sign referred to in paragraph (1) must—
 - (a) be designed in such a way as to allow the additional SEPA information referred to in paragraph (5) to be affixed to it or displayed; and
 - (b) indicate the bathing water’s current classification under regulation 10 in the form of the appropriate symbol contained in Part 2 of the Annex to the Commission Decision.”;
 - (e) in paragraph (8) for “publish the following information on its website” substitute “promptly and actively disseminate the following information”; and
 - (f) in paragraph (8)(g) for “its bathing water profile indicates” substitute “SEPA considers”.
- (4) In regulation 11 (management measures for “poor” bathing waters)—
 - (a) in paragraph (2) after “must” insert “, with effect from the bathing season following the classification,”;
 - (b) at the end of paragraph (2) insert—
 - “; and
 - (c) identify the reasons why the bathing water failed to achieve a classification of “sufficient””;
 - (c) in paragraph (4) for “the bathing water” to the end substitute “the causes of pollution at the bathing water are prevented, reduced or eliminated”; and
 - (d) in paragraph (5) for “achieve sufficient, good, or excellent classification for” substitute “prevent, reduce or eliminate the causes of pollution at”.
- (5) For regulation 12 (management measures at bathing waters subject to short-term pollution) substitute—

“Management measures at bathing waters subject to short-term pollution

- 12.** Where short-term pollution is predicted or present at a bathing water, SEPA must—
 - (a) take such action as it considers necessary, whether under regulations relating to any controlled activity or under any other functions, to ensure that the short-term pollution is prevented, reduced or eliminated; and

(a) OJ L 143, 31.5.2011, p.38.

- (b) take adequate measures, including surveillance, early warning systems and monitoring, with a view to a warning or bathing prohibition being issued, if necessary.”.

St Andrew's House,
Edinburgh
30th August 2012

STEWART STEVENSON
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Bathing Waters (Scotland) Regulations 2008 (SSI 2008/170) (“the 2008 Regulations”) to further transpose Directive 2006/7/EC concerning the management of bathing water quality and repealing Directive 76/160/EEC, OJ L 64, 4.3.2006, p.37.

The Regulations also implement Commission Implementing Decision 2011/321/EU establishing, pursuant to Directive 2006/7/EC of the European Parliament and of the Council, a symbol for information to the public on bathing water classification and any bathing prohibition or advice against bathing (“the Commission Decision”), OJ L 143, 31.5.2011, p.38.

Regulation 2(2) amends the definition of ‘short-term pollution’ in regulation 2 of the 2008 Regulations to clarify that SEPA must have identified the causes of the contamination for that contamination to be defined as ‘short-term pollution’.

Regulation 2(3) amends regulation 8 of the 2008 Regulations to provide that the information listed in paragraph (1) of that regulation must be made available promptly, and the information in paragraph (8) of that Regulation must be promptly and actively disseminated. It also clarifies that the provisions in regulations 8(1)(d) and 8(8)(g) apply in any case where SEPA considers there is short-term pollution, and not only in cases where short-term pollution is indicated in that bathing water’s profile. Regulations 2(3)(b) and (d) implement the Commission Decision.

Regulation 2(4) amends regulation 11 to clarify the management measures SEPA must take for ‘poor’ bathing waters.

Regulation 2(5) amends regulation 12 to provide that where short-term pollution is predicted or present, SEPA must take measures including surveillance, early warning systems and monitoring, with a view to issuing a warning or bathing prohibition.

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