

**EXPLANATORY MEMORANDUM TO**  
**THE BATHING WATER (AMENDMENT) (ENGLAND) REGULATIONS 2018**  
**2018 No. 527**

**1. Introduction**

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

**2. Purpose of the instrument**

- 2.1 This instrument amends Part 1 of Schedule 2 to the Bathing Water Regulations 2013 (S.I. 2013/1675) (“the Regulations”) to reflect changes to the list of designated bathing waters in England.

**3. Matters of special interest to Parliament**

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

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 The Regulations implement the Bathing Water Directive 2006/7/EC (OJ No L 64, 4.3.2006, p 37), which is designed to help protect public health and the environment from faecal pollution at bathing waters. Under the Regulations, the Secretary of State must designate a surface water in England a bathing water where he expects a large number of people to bathe, having regard to past trends and any infrastructure or facilities provided, or other measures taken, to promote bathing at that water. The Secretary of State must also de-designate bathing waters in certain circumstances, including where it is infeasible for the water quality at that bathing water to attain the “sufficient” classification, the minimum standard required under the Regulations.
- 4.2 The Secretary of State must keep a complete list of designated bathing waters in England, which can be found in Part 1 of Schedule 2 to the Regulations. This instrument amends this Part to update the list of designated bathing waters in England.

**5. Extent and Territorial Application**

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England only.

**6. European Convention on Human Rights**

- 6.1 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 In England, the Secretary of State must designate as bathing waters those surface waters where he expects a large number of people to bathe. The list of bathing waters designated in England is set out in Part 1 of Schedule 2 to the Regulations. This instrument amends that list as follows.
- 7.2 This instrument adds nine newly designated bathing waters, following applications from the relevant local authorities. These are: Booby's Bay; Fistril South; Godrevy Towans; Gwynver; Mexico Towans; Northcott Mouth; Tregonhawke; Upton Towans; and Bournemouth Manor Steps.
- 7.3 This instrument removes two bathing waters (Silloth and Instow) on grounds that they are no longer suitable for designation. Silloth has been removed following an application from the relevant local authority, as it is little used by bathers and no longer meets the test for designation. Instow has been removed following a recommendation from the Environment Agency (under regulation 13(2)(b) of the Regulations) that it would be infeasible to improve the water quality of the site to meet the "sufficient" classification. Permanent advice against bathing will be issued at Instow in advance of the start of the 2018 bathing season, in accordance with regulation 13(3) of the Regulations. In both cases, the relevant local authorities have been informed of, and agree with, the decision to de-designate.
- 7.4 This instrument amends the names of 20 bathing waters currently listed in Part 1 of Schedule 2 following a request by the relevant local authority, to more accurately reflect the names by which these bathing waters are commonly known.
- 7.5 An up-to-date list, including a table detailing the above name changes, can be found at <https://www.gov.uk/government/collections/bathing-waters>.

### *Consolidation*

- 7.6 As this instrument only makes minor amendments to Schedule 2 to the Regulations, it is not considered necessary to consolidate the Regulations at this time.

## **8. Consultation outcome**

- 8.1 National consultations were carried out on the nine newly designated waters for four weeks, and on the de-designation of Silloth and Instow for six weeks. Each national consultation was sent to a standard list of consultees, including environmental NGOs, swimming organisations, the relevant water companies, the National Farmers' Union, the Country Land and Business Association, and tourism and beach management organisations. The local councils also carried out consultations for all the applications except Instow, for which a national consultation was sent to a range of consultees in the area, in addition to those on the standard list. The national consultation documents were also made available online for members of the general public. The consultation documents and summaries of responses can be found on the following gov.uk websites:
- 8.1.1 Manor Steps, Bournemouth - the consultation document can be found at <https://consult.defra.gov.uk/water/designate-manor-steps-bournemouth-as-bathing-water/> and a summary of responses can be found at

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/689576/bathing-waters-bournemouth-manor-steps-sum-resp.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/689576/bathing-waters-bournemouth-manor-steps-sum-resp.pdf).

- 8.1.2 Eight sites, Cornwall - the consultation document (which covered all eight sites) can be found at <https://consult.defra.gov.uk/water/designate-bathing-waters-in-cornwall/> and a summary of responses can be found at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/689582/bathing-waters-cornwall-sum-resp.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/689582/bathing-waters-cornwall-sum-resp.pdf)
- 8.1.3 Silloth, Cumbria - the consultation document can be found at <https://consult.defra.gov.uk/water/de-designation-of-silloth/> and a summary of responses can be found at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/689601/bathing-waters-silloth-sum-resp.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/689601/bathing-waters-silloth-sum-resp.pdf)
- 8.1.4 Instow, North Devon - the consultation document can be found at <https://consult.defra.gov.uk/water/bathing-water-removing-instow/> and a summary of responses can be found at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/696001/bathing-waters-instow-sum-resp.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/696001/bathing-waters-instow-sum-resp.pdf)
- 8.2 All the responses to the consultation on Manor Steps, Bournemouth, and the vast majority of responses to the consultation on the eight sites in Cornwall, supported the proposed designations. The majority of those who opposed provided no reasons. One response opposed the designation of a beach in Cornwall on the grounds of public safety. However, this concern was weighed against the fact that the beach concerned has a high level of usage for bathing, is lifeguarded and has safety equipment available. The consultation on de-designating Silloth received three responses, two in support and one opposing (though without providing reasons).
- 8.3 The consultation on de-designating Instow received 31 responses, six in support and 22 opposing. Of the 22 opposing de-designation, 15 raised the high number of people using the beach and its importance as a bathing water to the local tourism economy. Five referred to the popularity of the estuary for water sports. However, the Regulations do not apply to areas used for water sports and the grounds for de-designating Instow is not low usage, but rather the infeasibility of improving the water quality to the sufficient classification.

## **9. Guidance**

- 9.1 Guidance on bathing water issues including designation and de-designation is available at <https://www.gov.uk/government/collections/bathing-waters>.

## **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 The impact on the public sector is low as the costs of meeting the public information requirements in the Regulations for the nine, newly designated bathing waters will be funded by Defra.
- 10.3 An Impact Assessment has not been prepared for this instrument.

**11. Regulating small business**

11.1 The legislation does not apply to activities that are undertaken by small businesses.

**12. Monitoring & review**

12.1 The list of designated bathing waters in Part 1 of Schedule 2 to the Regulations is reviewed annually. Further, the Regulations, as amended by this instrument, are due to be reviewed by the end of July 2018.

**13. Contact**

13.1 Tracy Westell at the Department for Environment, Food and Rural Affairs,  
Telephone: 020 8026 4234 or email: [bathingwater@defra.gsi.gov.uk](mailto:bathingwater@defra.gsi.gov.uk) to answer any queries regarding the instrument.

13.2 For hard copies of any document referred to in this explanatory memorandum, please write to the following address: Bathing Water Team, 3rd Floor Seacole Block, 2 Marsham Street, London SW1P 4DF.