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STATUTORY RULES OF NORTHERN IRELAND

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**2008 No. 231**

**ENVIRONMENTAL PROTECTION**

**The Quality of Bathing Water  
Regulations (Northern Ireland) 2008**

*Made - - - - 28th May 2008*

*Coming into operation in accordance with regulation 1*

The Department of the Environment, being a department designated (1) for the purposes of section 2(2) of the European Communities Act 1972 (2) in relation to measures relating to the environment, acting in exercise of the powers conferred upon it by that section, makes the following Regulations:

**PART 1**

**PRELIMINARY**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Quality of Bathing Water Regulations (Northern Ireland) 2008 and come into operation in accordance with paragraphs (2) to (6).

(2) Regulations 1- 6, regulation 19, paragraph 2 (1) (a) of Schedule 3 and regulation 8 insofar as it relates to that paragraph, come into operation on 30<sup>th</sup> June 2008.

(3) Regulation 7 comes into operation on 24<sup>th</sup> March 2011.

(4) Subject to paragraph (6), regulations 8 to 10, 11(1) (a) and (5), 13, 15 to 18 and 20 come into operation on 24<sup>th</sup> March 2012.

(5) The remainder of regulation 11 and regulations 12 and 14 come into operation on 24<sup>th</sup> March 2015.

(6) Sub-paragraph (a) of paragraph (1) of regulation 9, regulation 10 insofar as it relates to that sub-paragraph and regulation 21 come into operation on 30<sup>th</sup> September 2015.

### Commencement Information

**II** [Reg. 1](#) in operation at 30.6.2008, see [reg. 1\(2\)](#)

### Interpretation

**2.—(1)** The Interpretation Act (Northern Ireland) 1954 **(3)** applies to these Regulations as it applies to an Act of the Northern Ireland Assembly.

**(2)** In these Regulations—

“abnormal situation” means an event or combination of events impacting on bathing water quality which the Department would not expect to occur, on average, more than once every four years;

“bathing season” means the period determined by the Department under regulation 4;

“bathing water” means a surface water specified in Schedule 1;

“Bathing Water Directive” means Directive [2006/7/EC\(4\)](#) of the European Parliament and of the Council concerning the management of bathing water quality and repealing Directive [76/160/EEC\(5\)](#);

“bathing water operator” means any person who controls the land immediately adjacent to a bathing water which is normally used to access the bathing water from the landward side and where the bathing water is tidal, the person who controls such land above the high water mark;

“bathing water profile” means the profile established under regulation 7;

“bathing water quality assessment” means the assessment carried out by the Department under regulation 11;

“cyanobacterial proliferation” means the accumulation of cyanobacteria in the form of a bloom, mat or scum;

“Department” means the Department of the Environment;

“Departmental management measures” means measures taken by the Department—

(a) under regulation 5 to reduce the risk of pollution; or

(b) under regulations 7 to 12;

“management measures” means Departmental management measures or operator management measures;

“operator management measures” means measures taken by a bathing water operator—

(a) to give information to the public under regulation 9; or

(b) to prevent bathers’ exposure to pollution by means of public information under regulation 9;

“permanent advice against bathing” means advice issued, in relation to at least one whole bathing season, under regulation 12(2);

“relevant procedures for short-term pollution” means the following procedures for identifying the causes of, predicting and dealing with short-term pollution—

(a) management measures;

**(3)** [1954 c.33 \(N.I.\)](#)

**(4)** OJ No. L64, 4.3.2006, p.37

**(5)** OJ No. L31,5.2.76, p.1

- (b) surveillance and early warning systems with a view to preventing bathers' exposure to the short-term pollution by means of public information under regulations 9 and 10;
- (c) measures in relation to a bathing water taken by the Department under regulation 5 to prevent, reduce or eliminate the causes of short-term pollution;

“set of bathing water quality data” means data obtained from results of samples taken under Part 1 of Schedule 3;

“short-term pollution” means contamination by Intestinal enterococci or Escherichia coli where the Department—

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

“surface water”, “groundwater”, “inland water”, “coastal water” and “transitional waters” have the same meaning as in the Water Framework Regulations;

“vicinity of the bathing water” means a position near to the bathing water, at a place likely to be noticed by persons as they make use of or enter onto the bathing water and, where the bathing water is tidal, higher than the High Spring Tide mark; and

“Water Framework Regulations” means the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003(6).

(3) In the following regulations, namely—

- (a) regulation 5(4)
- (b) regulation 10(2)(b),
- (c) regulation 12(2),
- (d) regulation 13(1) and (2),
- (e) regulation 14(a),
- (f) regulation 16; and
- (g) paragraph 10(2) of Part 4 of Schedule 3,

references to a bathing water operator do not include the Department in its capacity as such.

(4) Expressions used in these Regulations and not otherwise defined shall have the same meaning in these Regulations as they have in the Bathing Water Directive.

#### **Commencement Information**

**I2** [Reg. 2](#) in operation at 30.6.2008, see [reg. 1\(2\)](#)

## PART 2

### GENERAL

#### **Identification of bathing waters**

**3.** The surface waters specified in Schedule 1 are bathing waters for the purposes of these Regulations.

*Status: Point in time view as at 01/06/2012. This version of this Rule contains provisions that are not valid for this point in time.*

**Changes to legislation:** *There are currently no known outstanding effects for the The Quality of Bathing Water Regulations (Northern Ireland) 2008. (See end of Document for details)*

**Commencement Information**

**I3** Reg. 3 in operation at 30.6.2008, see **reg. 1(2)**

**Length of bathing season**

4. For the purposes of these Regulations, the bathing season begins on the 1<sup>st</sup> June and ends at the end of the day on 15<sup>th</sup> September in each year.

**Commencement Information**

**I4** Reg. 4 in operation at 30.6.2008, see **reg. 1(2)**

**General duties**

5.—(1) The Department shall in the exercise of its relevant functions—

- (a) ensure that by the end of the bathing season in 2015, all bathing waters are classified under regulation 12 as at least “sufficient”;
- (b) take such realistic and proportionate measures as it considers appropriate in order to increase the number of bathing waters classified under regulation 12 as “good” or “excellent”; and
- (c) otherwise ensure compliance with the requirements of the Bathing Water Directive.

(2) In this regulation “relevant functions” means functions under these Regulations and so far as relevant the enactments specified in Schedule 2 to the Water Framework Regulations.

(3) In the Water Framework Regulations, in Schedule 2 (relevant functions), in Part 2, after paragraph 26 insert—

“27. *The Quality of Bathing Water Regulations (Northern Ireland) 2008.*”

(4) The Department shall promptly provide a bathing water operator with such information as the Department considers the operator requires for the purpose of the operator’s functions under these Regulations.

**Commencement Information**

**I5** Reg. 5 in operation at 30.6.2008, see **reg. 1(2)**

**Public participation**

6.—(1) The Department shall—

- (a) encourage public participation in the exercise of its functions under these Regulations; and
- (b) ensure that the public has an opportunity—
  - (i) to find out how to participate; and
  - (ii) to submit comments or complaints.

(2) The Department shall take due account of any information it has obtained from the public when exercising its functions under these Regulations.

**Commencement Information**

**16** Reg. 6 in operation at 30.6.2008, see **reg. 1(2)**

**Bathing water profiles**

7.—(1) The Department shall establish and keep under review a bathing water profile for every bathing water in accordance with Schedule 2.

(2) The Department may combine the bathing water profiles of contiguous bathing waters.

(3) When complying with paragraph (1), the Department shall take into account the data which it has obtained or analysed under—

- (a) The Quality of Bathing Water Regulations (Northern Ireland) 1993(7); and
- (b) The Water Framework Regulations.

**Commencement Information**

**17** Reg. 7 in operation at 24.3.2011, see **reg. 1(3)**

## PART 3

### MONITORING OF BATHING WATERS AND PUBLIC INFORMATION

**Monitoring**

8.—(1) The Department shall monitor and carry out investigations at bathing waters in accordance with this regulation.

(2) Monitoring for—

- (a) Intestinal enterococci and Escherichia coli shall be in accordance with Part 1 of Schedule 3;
- (b) cyanobacteria shall be in accordance with Part 2 of Schedule 3;
- (c) other pollution, which takes the form of tarry residues, glass, plastic, rubber or any other waste, shall be carried out in accordance with Part 4 of Schedule 3.

(3) Investigation of macro-algae and marine phytoplankton proliferation shall be carried out in accordance with Part 3 of Schedule 3.

(4) The bathing water operator shall also monitor in accordance with Part 4 of Schedule 3.

**Commencement Information**

**18** Reg. 8 in operation at 30.6.2008 for specified purposes, see **reg. 1(2)**

**Public information: duties of bathing water operator**

9.—(1) Every bathing water operator shall ensure that the following information about its bathing water is available during the bathing season in an easily accessible place in the vicinity of the bathing water—

- (a) the bathing water’s current classification pursuant to regulation 12;
- (b) whether any advice against bathing has been introduced there;
- (c) a general description of the bathing water, in non-technical language, based on its bathing water profile;
- (d) where its bathing water profile indicates that the bathing water is likely to be affected by incidents of short-term pollution—
  - (i) a statement to that effect;
  - (ii) an indication of the number of days for which advice against bathing was introduced there during the immediately preceding bathing season because of short-term pollution;
  - (iii) a warning whenever short-term pollution is predicted or present;
- (e) information on the nature and expected duration of abnormal situations there; and
- (f) an indication of the sources of more complete information published in accordance with regulation 10.

(2) Paragraph (3)(a) and (b) of regulation 10 shall apply to information provided under this regulation as it applies to information provided under that regulation.

#### **Commencement Information**

- I9** Reg. 9(1)(a) in operation at 30.9.2015, see [reg. 1\(6\)](#)
- I10** Reg. 9(1)(b)-(f) in operation at 24.3.2012, see [reg. 1\(4\)](#)
- I11** Reg. 9(2) in operation at 24.3.2012, see [reg. 1\(4\)](#)

#### **Public information: duties of the Department**

**10.**—(1) The Department shall publish on its website the information specified in regulation 9(1) together with the following additional information, namely—

- (a) a list of all bathing waters;
- (b) before the start of every bathing season, the classification in accordance with regulation 12 of every bathing water for the preceding three years;
- (c) the bathing water profile of every bathing water;
- (d) as soon as possible after completion of the analyses under Schedule 3, the results of the monitoring carried out in accordance with regulation 8 since the beginning of the current bathing season;
- (e) where its bathing water profile indicates that the bathing water is likely to be affected by incidents of short-term pollution—
  - (i) the conditions likely to lead to short-term pollution there;
  - (ii) the likelihood of short-term pollution there and its likely duration;
  - (iii) the causes of short-term pollution; and
  - (iv) the relevant procedures for short-term pollution; and
- (f) where a bathing water is classified as “poor” under regulation 12—
  - (i) the causes of pollution there; and
  - (ii) the management measures being taken there under regulation 14.

(2) The Department shall—

- (a) prepare a general description of every bathing water for use under regulation 9(1)(c); and
  - (b) make the information available to all bathing water operators.
- (3) Information under this regulation shall—
- (a) wherever possible, be provided using a geographic information system;
  - (b) be presented in a clear and coherent manner; and
  - (c) be in such languages, in addition to English, as are appropriate having regard to the location of the bathing water and the ease of public understanding.

#### **Commencement Information**

- I12** Reg. 10 in operation at 24.3.2012 in so far as not already in operation, see [reg. 1\(4\)](#)
- I13** Reg. 10 in operation at 30.9.2015 for specified purposes, see [reg. 1\(6\)](#)

## **PART 4**

### **BATHING WATER ASSESSMENT AND CLASSIFICATION**

#### **Assessment**

- 11.**—(1) At the end of every bathing season, for every bathing water, the Department shall—
- (a) prepare a set of bathing water quality data for that season; and
  - (b) carry out a bathing water quality assessment using the set of bathing water quality data compiled in relation to that season and the relevant assessment period.
- (2) In this regulation, the “relevant assessment period” is—
- (a) the immediately preceding three bathing seasons;
  - (b) the immediately preceding two bathing seasons, where the Department so decides in accordance with paragraph (3); or
  - (c) the number of immediately preceding bathing seasons, being less than three, that the Department so decides in accordance with paragraph (4).
- (3) The Department may make a decision under paragraph (2)(b) where—
- (a) it is at least five years since the last change in the relevant assessment period; and
  - (b) the set of bathing water quality data is based on at least 16 samples.
- (4) The Department may make a decision under paragraph 2(c) where—
- (a) it considers that any factors identified in the bathing water profile as likely to affect the classification of the bathing water under regulation 12 have changed, and the set of bathing water quality data used is based only on samples taken since those factors have changed; and
  - (b) the set of bathing water quality data is based on at least 16 samples.
- (5) The Department may—
- (a) subdivide existing bathing waters in the light of the bathing water quality assessments carried out under this regulation; or
  - (b) group together existing bathing waters in light of those assessments where those bathing waters—
    - (i) are contiguous;

- (ii) have received similar assessments for the preceding four years; and
- (iii) have bathing water profiles which identify common pollution risk factors or the absence thereof.

**Commencement Information**

- I14** Reg. 11(1)(a) in operation at 24.3.2015, see [reg. 1\(4\)](#)
- I15** Reg. 11(1)(b) in operation at 24.3.2015, see [reg. 1\(5\)](#)
- I16** Reg. 11(2)-(4) in operation at 24.3.2015, see [reg. 1\(5\)](#)
- I17** [Reg. 11\(5\)](#) in operation at 24.3.2012, see [reg. 1\(4\)](#)

PROSPECTIVE

**Classification**

[<sup>F1</sup>12. At the end of every bathing season, on the basis of the assessment made under regulation 11, the Department shall classify every bathing water as “poor”, “sufficient”, “good” or “excellent” in accordance with Schedule 4.]

- F1** [Reg. 12](#) substituted (26.6.2013) by [The Quality of Bathing Water \(Amendment\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/151\)](#), regs. 1, [9](#)

**Commencement Information**

- I18** Reg. 12 in operation at 24.3.2015, see [reg. 1\(5\)](#)

**PART 5****MANAGEMENT OF BATHING WATERS****Management measures at bathing waters subject to pollution incidents**

- 13.**—(1) This regulation applies where the Department or a bathing water operator is aware of—
- (a) a cyanobacterial proliferation which it considers may pose a risk to bathers’ health;
  - (b) a proliferation of macro-algae or marine phytoplankton which it considers is unacceptable or may pose a risk to bathers’ health;
  - (c) the presence of waste, including tarry residues, glass, plastic, or rubber; or
  - (d) any other incident, other than an incident of short-term pollution to which regulation 15 applies, that it considers may pose a risk to bathing water quality and bathers’ health.
- (2) The Department shall, when it is so aware, promptly —
- (a) consult the bathing water operator; and
  - (b) take, or cause to be taken, such Departmental management measures there as the Department considers adequate to protect bathers’ health.
- (3) Where a bathing water operator is so aware it shall promptly —
- (a) consult the Department;



- (b) take such operator management measures there as it considers adequate to protect bathers' health; and
- (c) where necessary, remove the waste.

**Commencement Information**

**119** Reg. 13 in operation at 24.3.2012, see **reg. 1(4)**

PROSPECTIVE

**Additional management measures at “poor” bathing waters**

- [<sup>F2</sup>14.—(1) Where the Department classifies a bathing water as “poor” under regulation 12—
- (a) the Department shall, during the bathing season following this classification—
    - (i) take, or cause to be taken, such Departmental management measures at the bathing water as it considers adequate with a view to preventing bathers' exposure to pollution;
    - (ii) take, or cause to be taken, such Departmental management measures or other adequate measures at the bathing water so as to prevent, reduce or eliminate (as appropriate) the causes of pollution;
    - (iii) notify the bathing water operator; and
    - (iv) identify the reasons why the bathing water failed to achieve a classification of “sufficient”; and
  - (b) the bathing water operator shall—
    - (i) take such operator management measures that it considers adequate with a view to preventing bathers' exposure to pollution; and
    - (ii) introduce advice against bathing there by means of public information under regulation 9.
- (2) The Department shall issue permanent advice against bathing where—
- (a) the Department has classified the bathing water as “poor” under regulation 12 for five consecutive years; or
  - (b) after consultation with such other persons as it thinks fit, it considers that the achievement of a “sufficient” quality classification at that bathing water would be infeasible or disproportionately expensive.
- (3) Where permanent advice against bathing has been issued in relation to a bathing water, the Department shall—
- (a) notify the bathing water operator that permanent advice against bathing has been issued in relation to a bathing water in its area, giving reasons; and
  - (b) use appropriate media and technologies including the internet to actively and promptly disseminate all the following information, in such languages in addition to English as are appropriate, having regard to the location of the bathing water and ease of understanding, namely—
    - (i) that permanent advice against bathing has been introduced there;
    - (ii) the fact that the area concerned is no longer a bathing water; and
    - (iii) the reasons for its declassification.

(4) Where a bathing water operator has received notification that permanent advice against bathing has been issued in relation to a bathing water, that bathing water operator shall promptly and actively ensure that the following information is available in an easily accessible place in the near vicinity of the bathing water during the bathing season—

- (a) that permanent advice against bathing has been introduced there, represented by a symbol in accordance with Part 1 of the Annex to the Decision;
- (b) the area concerned is no longer a bathing water; and
- (c) the reasons for the declassification.]

**F2** [Reg. 14](#) substituted (26.6.2013) by [The Quality of Bathing Water \(Amendment\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/151\)](#), regs. 1, **11**

**Commencement Information**

**I20** [Reg. 14](#) in operation at 24.3.2015, see [reg. 1\(5\)](#)

**Additional management measures at bathing waters likely to be subject to incidents of short-term pollution**

**15.** Where the bathing water profile indicates that there is short-term pollution at a bathing water—

- (a) the Department shall operate, or cause to be operated, the relevant procedures for short-term pollution for which it is responsible; and
- (b) the bathing water operator shall take the operator management measures which form part of the relevant procedures for short-term pollution there.

**Commencement Information**

**I21** [Reg. 15](#) in operation at 24.3.2012, see [reg. 1\(4\)](#)

## PART 6

### GENERAL PROVISIONS

**Notice requiring bathing water operator to comply with the Regulations**

**16.—(1)** If the Department becomes aware that a bathing water operator has failed in its duties under these Regulations, the Department may —

- (a) by notice given to the bathing water operator specify—
  - (i) the measures which shall be taken by it to comply with these Regulations; and
  - (ii) the time within which those measures shall be taken.

(2) Before serving a notice under paragraph (1) on a bathing water operator, the Department shall reasonably endeavour to consult that operator concerning the measures which are to be specified in the notice.

(3) A notice under paragraph (1) shall not be regarded as invalid or invalidly served by reason only of a failure to comply with paragraph (2).

(4) A bathing water operator upon whom a notice under paragraph (1) is served, may, within the period of 21 days beginning with the day on which the notice is served, appeal against the notice to the Water Appeals Commission.

(5) Where—

(a) a notice under paragraph (1) is varied or quashed on appeal; and

(b) the bathing water operator has complied with the notice,

the Department shall pay to the bathing water operator an amount equal to the loss suffered, or expenditure incurred, by that operator in complying with the notice.

(6) Any dispute under regulation (5) as to the loss suffered or expenditure incurred shall be determined by the Lands Tribunal.

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**Commencement Information**

**I22** [Reg. 16](#) in operation at 24.3.2012, see [reg. 1\(4\)](#)

**Consequences of not complying with a notice under regulation 16**

**17.** If a bathing water operator upon whom a notice is served under regulation 16 fails to comply with any of the requirements of the notice, the Department may—

(a) do what the bathing water operator was required to do and may recover from the bathing water operator any costs or expenses reasonably incurred by the Department in doing it; or

(b) take proceedings in the High Court requiring the bathing water operator to comply with the notice.

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**Commencement Information**

**I23** [Reg. 17](#) in operation at 24.3.2012, see [reg. 1\(4\)](#)

**Enforcement powers**

**18.** Article 72 of the Waste and Contaminated Land (Northern Ireland) Order 1997 (**8**) applies to the exercise by the Department of its functions under these Regulations as it applies to the exercise of its functions under the pollution control statutory provisions referred to in that Article.

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**Commencement Information**

**I24** [Reg. 18](#) in operation at 24.3.2012, see [reg. 1\(4\)](#)

**Power to obtain information**

**19.—(1)** The Department may serve on any person a notice requiring that person to furnish it, within a period of time specified in the notice and in a form and manner so specified, with such information as is reasonably required by the Department for the purpose of carrying out any of its functions under these Regulations.

*Status: Point in time view as at 01/06/2012. This version of this Rule contains provisions that are not valid for this point in time.*

**Changes to legislation:** There are currently no known outstanding effects for the The Quality of Bathing Water Regulations (Northern Ireland) 2008. (See end of Document for details)

(2) A person who fails without reasonable excuse to comply with the requirements of a notice served on him under paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

**Commencement Information**

**I25** Reg. 19 in operation at 30.6.2008, see **reg. 1(2)**

**Co-operation on transboundary waters**

**20.**—(1) Where a river basin gives rise to transboundary impacts on bathing water quality, the Department shall notify the competent authorities in the Republic of Ireland of the relevant facts.

(2) The Department, in consultation with the competent authorities in the Republic of Ireland, shall organise the concertation necessary to identify the sources in question and the measures to be taken to protect the waters that are affected.

**Commencement Information**

**I26** Reg. 20 in operation at 24.3.2012, see **reg. 1(4)**

VALID FROM 30/09/2015

**PART 7**  
**REVOCATION**

**Revocation**

**21.** The Quality of Bathing Water Regulations (Northern Ireland) 1993 are hereby revoked.

**Commencement Information**

**I27** Reg. 21 in operation at 30.9.2015, see **reg. 1(6)**

Sealed with the Official Seal of the Department of the Environment on 28<sup>th</sup> May 2008.



*Maggie Smith*  
A senior officer of the  
Department of the Environment



**Status:** Point in time view as at 01/06/2012. This version of this Rule contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the The Quality of Bathing Water Regulations (Northern Ireland) 2008. (See end of Document for details)

## [F3] SCHEDULE 1

Regulation 3

### BATHING WATERS

**F3** Sch. 1 substituted (1.6.2012) by [The Quality of Bathing Water \(Amendment\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/218\)](#), regs. 1, 3, [Sch.](#)

- 1) Ballycastle
- 2) Ballygally
- 3) Ballyholme
- 4) Ballywalter
- 5) Benone (Magilligan)
- 6) Brown's Bay
- 7) Carnlough
- 8) Castlerock
- 9) Cranfield (Cranfield Bay)
- 10) Crawfordsburn
- 11) Downhill
- 12) Groomsport
- 13) Helen's Bay
- 14) Millisle
- 15) Murlough Bay
- 16) Newcastle
- 17) Portballintrae (Salmon Rock)
- 18) Portrush (Curran Strand)
- 19) Portrush Mill Strand)
- 20) Portstewart
- 21) Tyrella
- 22) Waterfoot
- 23) Whiterocks]

## SCHEDULE 2

Regulation 7

### BATHING WATER PROFILES

#### Contents

- 1.—(1) Every bathing water profile shall—
  - (a) contain a description of the physical, geographical and hydrological characteristics of—
    - (i) the bathing water; and
    - (ii) any other surface water in the catchment area of the bathing water where the surface water could be a source of pollution for the bathing water;

- (b) identify and assess the causes of pollution that might affect bathing water quality and pose a risk to bathers' health;
  - (c) assess the potential for cyanobacterial proliferation;
  - (d) assess the potential for the proliferation of macro-algae or phytoplankton;
  - (e) identify the location of the monitoring point;
  - (f) if the assessment under sub-paragraph (b) shows that there is a risk of short-term pollution contain—
    - (i) information as to the anticipated nature, frequency and duration of short-term pollution;
    - (ii) details of the expected causes of short-term pollution;
    - (iii) details of the management measures taken and the time schedule for the elimination of the causes;
    - (iv) details of the management measures taken during a short-term pollution incident; and
    - (v) the identity and contact details of any person responsible for taking the management measures during the incident.
- (2) The information in sub-paragraph (1)(a) and (b) shall be detailed on a map whenever practicable.

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**Commencement Information**

**I28** Sch. 2 para. 1 in operation at 24.3.2011, see [reg. 1\(3\)](#)

**Review**

2.—(1) Where a bathing water is classified as “poor”, “sufficient” or “good” under regulation 12, the Department shall review the bathing water profile—

- (a) at the following minimum frequency—
  - (i) for a “poor” classification, every two years;
  - (ii) for a “sufficient classification”, every three years; and
  - (iii) for a “good” classification, every four years; and
- (b) taking into account the nature and severity of the pollution which affects the bathing water.

(2) Where there are significant construction works or infrastructure changes in or around a bathing water, the Department shall review the bathing water profile before the start of the next bathing season.

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**Commencement Information**

**I29** Sch. 2 para. 2 in operation at 24.3.2011, see [reg. 1\(3\)](#)

**Status:** Point in time view as at 01/06/2012. This version of this Rule contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the The Quality of Bathing Water Regulations (Northern Ireland) 2008. (See end of Document for details)

## SCHEDULE 3

Regulation 8

### MONITORING

#### PART 1

#### INTESTINAL ENTEROCOCCI AND ESCHERICHIA COLI

##### Location of monitoring point

1.—(1) Where the Department takes samples in compliance with this Part it shall do so from the monitoring point situated at each bathing water.

(2) The Department shall—

- (a) locate the monitoring point at every bathing water where—
  - (i) most bathers are expected; or
  - (ii) the bathing water profile indicates that the greatest risk of pollution is expected; and
- (b) where possible, take samples 30 centimetres below the water's surface and in water that is at least one metre deep.

##### Commencement Information

**I30** Sch. 3 para. 1 in operation at 24.3.2012, see [reg. 1\(4\)](#)

##### Monitoring calendar

2.—(1) The Department shall —

- (a) establish a calendar which specifies dates for sampling for every bathing water before the start of every bathing season ('a monitoring calendar'); and
- (b) take samples at every bathing water no later than four days after the date specified in the monitoring calendar.

(2) In relation to abnormal situations—

- (a) during the situation, the Department may suspend the monitoring calendar for the duration of such; and
- (b) as soon as possible after the end of the situation, the Department shall—
  - (i) take one additional sample in order to verify that the incident has ended;
  - (ii) take sufficient additional samples to ensure it has the minimum number required for the bathing water for the bathing season.

(3) The Department shall not include the sample taken under sub-paragraph (2)(b)(i) in the set of bathing water quality data for a bathing water.

##### Commencement Information

**I31** Sch. 3 para. 2(1)(a) in operation at 30.6.2008, see [reg. 1\(2\)](#)

**I32** Sch. 3 para. 2(1)(b) in operation at 24.3.2012, see [reg. 1\(4\)](#)

**I33** Sch. 3 para. 2(2)(3) in operation at 24.3.2012, see [reg. 1\(4\)](#)



### Frequency of monitoring

3. The Department shall —
  - (a) take and analyse at least four samples from every bathing water during every bathing season;
  - (b) take the first such sample for every bathing season shortly before the start of that season; and
  - (c) take samples from every bathing water throughout the bathing season at regular intervals not exceeding one month.

#### Commencement Information

**I34** Sch. 3 para. 3 in operation at 24.3.2012, see [reg. 1\(4\)](#)

### Sampling equipment

- 4.—(1) The Department shall only use sampling bottles which—
  - (a) have been—
    - (i) sterilised in an autoclave for at least 15 minutes at 121 degrees Celsius;
    - (ii) dry sterilised at no lower than 160 degrees Celsius and no higher than 170 degrees Celsius for at least one hour; or
    - (iii) irradiated by their manufacturer and not used previously;
  - (b) are of a size which allows sufficient water to be taken and analysed for the presence of Intestinal enterococci and Escherichia coli; and
  - (c) are made of transparent and colourless material.
- (2) The Department shall—
  - (a) use aseptic techniques to maintain the sterility of the sample bottles; and
  - (b) clearly identify every sample taken by marking in indelible ink the sample bottle and associated paperwork.

#### Commencement Information

**I35** Sch. 3 para. 4 in operation at 24.3.2012, see [reg. 1\(4\)](#)

### Storage and transport of samples before analysis

- 5.—(1) The Department shall—
  - (a) at all times, protect every sample taken from exposure to light, and in particular, direct sunlight; and
  - (b) conserve every sample at a temperature of around 4 degrees Celsius between sampling and laboratory analysis.
- (2) In relation to any sample, if the interval between sampling and laboratory analysis is likely to exceed four hours, the Department shall conserve the sample in a refrigerator.
- (3) The Department shall ensure that the time between sampling and laboratory analysis does not exceed 24 hours and must use its best endeavours to keep this time as short as possible.

**Status:** Point in time view as at 01/06/2012. This version of this Rule contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the The Quality of Bathing Water Regulations (Northern Ireland) 2008. (See end of Document for details)

**Commencement Information**

**I36** Sch. 3 para. 5 in operation at 24.3.2012, see [reg. 1\(4\)](#)

**Reference methods of analysis**

6.—(1) Subject to sub-paragraph (2), the Department shall use the following reference methods of analysis—

- (a) for Intestinal enterococci, ISO 7899-1 or ISO 7899-2; and
- (b) for Escherichia coli, ISO 9308-3 or ISO 9308-1.

(2) The Department may use such other reference methods of analysis as it considers are substantively equivalent to those specified in sub-paragraph (1).

**Commencement Information**

**I37** Sch. 3 para. 6 in operation at 24.3.2012, see [reg. 1\(4\)](#)

**Short-term pollution**

7.—(1) This paragraph applies where relevant procedures for short-term pollution are in place.

(2) The Department shall not include samples taken during a short-term pollution incident in the set of bathing water quality data for a bathing water.

(3) As soon as possible after the end of the short-term pollution incident, the Department shall take one additional sample in order to verify that the incident has ended.

(4) The Department shall not include the sample taken under sub-paragraph (3) in the set of bathing water quality data for a bathing water.

(5) Seven days after the end of the short-term pollution incident, the Department shall, if necessary, take an additional sample to ensure that it has the minimum number required for the bathing water for the bathing season.

(6) The number of samples disregarded under sub-paragraph (2) by the Department shall represent no more than the greater of either—

- (a) 15 percent of the total number of samples provided for in the monitoring calendars established under paragraph 2 of Schedule 3 for the same period; or
- (b) one sample per bathing season.

**Commencement Information**

**I38** Sch. 3 para. 7 in operation at 24.3.2012, see [reg. 1\(4\)](#)

## PART 2

### CYANOBACTERIA

8. Where any bathing water profile indicates a potential for cyanobacterial proliferation, the Department shall monitor that bathing water at the frequency necessary to allow adequate management measures to be put in place in accordance with regulation 13.

**Commencement Information**

**I39** Sch. 3 para. 8 in operation at 24.3.2012, see [reg. 1\(4\)](#)

## PART 3

### MACRO-ALGAE AND MARINE PHYTOPLANKTON

9. Where any bathing water profile indicates a tendency for proliferation of macro-algae or marine phytoplankton, the Department shall carry out such investigations at that bathing water as are necessary to determine whether such proliferation constitutes a health risk to bathers.

**Commencement Information**

**I40** Sch. 3 para. 9 in operation at 24.3.2012, see [reg. 1\(4\)](#)

## PART 4

### OTHER POLLUTION

10.—(1) The Department shall establish a visual monitoring programme at every bathing water at the frequency necessary to allow adequate management measures to be put in place in accordance with regulation 13.

(2) Every bathing water operator shall establish a visual monitoring programme at its bathing water at the frequency necessary to allow adequate management measures to be put in place in accordance with regulation 13.

**Commencement Information**

**I41** Sch. 3 para. 10 in operation at 24.3.2012, see [reg. 1\(4\)](#)

VALID FROM 24/03/2015

### SCHEDULE 4

Regulation 12

### STANDARDS

1. The Department shall use the following standards for classification—

**Status:** Point in time view as at 01/06/2012. This version of this Rule contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the The Quality of Bathing Water Regulations (Northern Ireland) 2008. (See end of Document for details)

**Standards for inland waters**

<i>Parameter</i>	<i>“Excellent”</i>	<i>“Good”</i>	<i>“Sufficient”</i>
Intestinal enterococci <sup>(1)</sup>	200 <sup>(2)</sup>	400 <sup>(2)</sup>	330 <sup>(3)</sup>
Escherichia coli <sup>(1)</sup>	500 <sup>(2)</sup>	1,000 <sup>(2)</sup>	900 <sup>(3)</sup>

(1) Colony forming units per 100 millilitres (“cfu/100ml”)

(2) Based upon a 95-percentile evaluation

(3) Based upon a 90-percentile evaluation

**Standards for coastal and transitional waters**

<i>Parameter</i>	<i>“Excellent”</i>	<i>“Good”</i>	<i>“Sufficient”</i>
Intestinal enterococci <sup>(1)</sup>	100 <sup>(2)</sup>	200 <sup>(2)</sup>	185 <sup>(3)</sup>
Escherichia coli <sup>(1)</sup>	250 <sup>(2)</sup>	500 <sup>(2)</sup>	500 <sup>(3)</sup>

(1) Colony forming units per 100 millilitres (“cfu/100ml”)

(2) Based upon a 95-percentile evaluation

(3) Based upon a 90-percentile evaluation

**Commencement Information**

**I42** Sch. 4 para. 1 in operation at 24.3.2015, see [reg. 1\(5\)](#)

**Methodology**

2. In this Schedule the Department shall base the “percentile values” and calculate same in compliance with the provisions set out in Annex II of the Directive.

**Commencement Information**

**I43** Sch. 4 para. 2 in operation at 24.3.2015, see [reg. 1\(5\)](#)

**Classification**

3.—(1) At the end of every bathing season, the Department shall classify a bathing water as “poor” if, in the set of bathing water quality data used, the percentile values for microbiological enumerations are higher than the “sufficient” standards set out in paragraph 1.

(2) At the end of every bathing season, the Department shall classify a bathing water as “sufficient” if—

- (a) in the set of bathing water quality data, the percentile values for microbiological enumerations are equal to or lower than the “sufficient” standards set out in paragraph 1; and
- (b) the bathing water is not classifiable as “good” or “excellent”.

(3) At the end of every bathing season, the Department shall classify a bathing water as “good” if—

- (a) in the set of bathing water quality data, the percentile values for microbiological enumerations are equal to or lower than the “good” standards set out in paragraph 1; and
- (b) the bathing water is not classifiable as “excellent”.

(4) At the end of every bathing season, the Department shall classify a bathing water as “excellent” if, in the set of bathing water quality data used, the percentile values for microbiological enumerations are equal to or lower than the “excellent” standards set out in paragraph

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**Commencement Information**

**I44** Sch. 4 para. 3 in operation at 24.3.2015, see [reg. 1\(5\)](#)

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**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision for the purpose of implementing in Northern Ireland Directive [2006/7/EC](#) (“the Bathing Water Directive”) of the European Parliament and of the Council concerning the management of bathing water quality and repealing Directive [76/160/EEC](#).

Regulations 3 and 4 make provision in relation to identifying bathing waters and the length of the bathing season.

Regulations 5 and 6 set out general duties imposed on the Department in order to secure compliance with the Bathing Water Directive, including in relation to public participation.

Regulation 7 requires the Department to establish a bathing water profile for every bathing water.

Regulation 8 requires the Department to establish a suitable monitoring programme.

Regulation 9 requires a bathing water operator to make certain information available in the vicinity of its bathing water. Regulation 10 requires the Department to make certain information available on its website and to the bathing water operator.

Regulations 11 and 12 require the Department to assess the bathing water quality data gathered under its monitoring programme and to classify each bathing water either as “poor”, “sufficient”, “good” or “excellent”.

Regulations 13 to 15 require the Department and bathing water operators to take certain management measures at bathing waters which are subject to pollution. Additional measures shall be taken where a bathing water is classified as “poor” or where a bathing water profile indicates there is short-term pollution.

Regulations 16 to 19 contain general provisions in relation to enforcement.

Regulation 20 places an obligation on the Department to co-operate with the competent authorities in the Republic of Ireland in relation to transboundary waters.

**Status:** Point in time view as at 01/06/2012. This version of this Rule contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the The Quality of Bathing Water Regulations (Northern Ireland) 2008. (See end of Document for details)

Regulation 21 revokes legislation transposing Council Directive [76/160/EEC](#) concerning the quality of bathing water (OJ L31, 5.2.1976, p.1) which is repealed by the Bathing Water Directive.

A partial regulatory impact assessment of the effect that this instrument will have on the costs to business and the voluntary sector is available from the Department of the Environment, 13<sup>th</sup> Floor, River House, 48 High Street, Belfast BT1 2AW.

**Status:**

Point in time view as at 01/06/2012. This version of this Rule contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the The Quality of Bathing Water Regulations (Northern Ireland) 2008.