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STATUTORY INSTRUMENTS

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**2008 No. 1097**

**The Bathing Water Regulations 2008**

**PART 1**

**GENERAL PROVISIONS**

**Citation, commencement and extent**

- 1.—(1) These Regulations may be cited as the Bathing Water Regulations 2008.
- (2) The following provisions come into force on 14th May 2008—
- (a) this regulation and regulations 2 to 7;
  - (b) in regulation 14(2), sub-paragraph (a) and regulation 14(1), in so far as it relates to that sub-paragraph;
  - (c) regulation 17; and
  - (d) in Schedule 3, in paragraph 2(1), paragraph (a) and regulation 8, in so far as it relates to that paragraph.
- (3) The following provisions come into force on 24th March 2012—
- (a) the remaining provisions in regulation 8;
  - (b) regulations 9 and 12;
  - (c) in regulation 14(2)—
    - (i) sub-paragraph (b) and regulation 14(1) in so far as it relates to that sub-paragraph; and
    - (ii) paragraph (2)(c)(v);
  - (d) regulation 14(3) and (4); and
  - (e) regulations 16 and 18.
- (4) All remaining provisions come into force on 24th March 2015.
- (5) Subject to paragraph (6), these Regulations extend to England and Wales only.
- (6) Any amendment or revocation made by these Regulations has the same extent as the enactment being amended or revoked.

**Interpretation**

- 2.—(1) In these Regulations—
- “abnormal situation” means an event or combination of events impacting on bathing water quality which the Agency would not expect to occur, on average, more than once every four years;
- “the Agency” means the Environment Agency;

“Agency management measures” means measures in relation to a bathing water taken by the Agency—

- (a) to reduce the risk of pollution (being measures within the Agency’s responsibilities referred to in regulation 5); or
- (b) under regulations 7 to 11;

“the appropriate Minister” means—

- (a) in relation to a bathing water in England, the Secretary of State; or
- (b) in relation to a bathing water in Wales, one of the Welsh Ministers;

“bathing season” means the period specified in regulation 4;

“a bathing water” means an area of surface water identified under regulation 3;

“control”, in relation to a bathing water, means control of the land immediately adjacent to the bathing water which is normally used to access the bathing water from the landward side and, where the bathing water is tidal, control of such land above the high water mark;

“the Bathing Water Directive” means Directive 2006/7/EC of the European Parliament and of the Council concerning the management of bathing water quality and repealing Directive 76/160/EEC<sup>(1)</sup>;

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

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

“England” includes the territorial sea adjacent to England and not forming any part of Wales;

“local authority” means—

- (a) in England, the council of any district, the unitary authority of a place in which there are no districts, the council of a London borough, the Common Council of the City of London or the Council of the Isles of Scilly; or
- (b) in Wales, the council of a county or county borough;

“local authority management measures” means measures taken, under regulation 9, by a local authority in relation to a bathing water which it controls—

- (a) to give information to the public; or
- (b) to prevent, by means of public information, bathers’ exposure to pollution;

“management measures” means Agency management measures, local authority management measures or private controller management measures;

“permanent advice against bathing” means advice issued, in relation to at least one whole bathing season, under regulation 13;

“pollution” means contamination which affects bathing water quality and presents a risk to bathers’ health from the following—

- (a) intestinal enterococci or *Escherichia coli*;
- (b) cyanobacterial proliferation;
- (c) a proliferation of macro-algae or marine phytoplankton;
- (d) waste, including tarry residues, glass, plastic or rubber;

“private controller” of a bathing water means a person, other than a local authority, who controls the bathing water;

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(1) OJ No L64, 4.3.2006, p.37.

“private controller management measures” means measures taken, under regulation 9, by a private controller of a bathing water in relation to the bathing water—

- (a) to give information to the public; or
- (b) to prevent, by means of public information, bathers’ exposure to pollution;

“relevant measures for short-term pollution” in relation to a bathing water means measures, of the following kinds, for identifying the causes of, predicting, and dealing with, short-term pollution at the bathing water—

- (a) Agency management measures;
- (b) the establishment of surveillance and early warning systems with a view to preventing bathers’ exposure to the short-term pollution by means of public information under regulation 14;
- (c) measures taken by the Agency (as part of its responsibilities referred to in regulation 5) to prevent, reduce or eliminate the causes of the 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 Agency—

- (a) has identified the 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;

“Wales” has the meaning given by section 158 of the Government of Wales Act 2006(2); and

“the Water Framework Directive” means Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy(3).

(2) In these Regulations, “coastal water”, “groundwater”, “inland water”, “surface water” and “transitional waters” have the same meaning as in the Water Framework Directive and those definitions, together with other relevant definitions from that Directive, are set out in Schedule 1 to these Regulations.

### **Identification of bathing waters**

3.—(1) For the purposes of these Regulations—

- (a) the surface waters on the English list are identified as bathing waters in relation to England; and
- (b) the surface waters on the Welsh list are identified as bathing waters in relation to Wales.

(2) The Secretary of State and the Agency must publish the English list on their respective websites.

(3) The Welsh Ministers and the Agency must publish the Welsh list on their respective websites.

(4) In this regulation—

- (a) “the English list” means the list entitled “Bathing Waters (England) 2008”, held at the principal office of the Department for Environment, Food and Rural Affairs (which is at Nobel House, 17 Smith Square, London SW1P 3JR)(4); and

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(2) 2006 c. 32.

(3) OJ No L327, 22.12.2000, p. 1, as amended.

(4) The list is also available on the Department’s website: [www.defra.gov.uk](http://www.defra.gov.uk)

(b) “the Welsh list” means the list entitled “Bathing Waters (Wales) 2008” deposited in the library of the Welsh Assembly Government at Cathays Park, Cardiff, CF10 3NQ<sup>(5)</sup>.

(5) For the purposes of giving effect to the Bathing Water Directive, section 104(1) of the Water Resources Act 1991<sup>(6)</sup> (meaning of “controlled waters”) has effect as if “inland freshwaters” included any lake or pond (other than a relevant lake or pond within the meaning of that section) identified under this regulation.

### **Length of the bathing season**

**4.** For the purposes of these Regulations, the bathing season in England and Wales begins on 15th May and ends at the end of the day on 30th September in each year.

### **General duties**

**5.—**(1) The Secretary of State, the Welsh Ministers and the Agency must exercise their relevant functions in England and Wales—

- (a) so as to ensure that, by the end of the bathing season in 2015, all bathing waters are classified under regulation 11 as “sufficient”;
- (b) so as to take such realistic and proportionate measures as they each consider appropriate with a view to increasing the number of bathing waters classified under regulation 11 as “good” or “excellent”; and
- (c) in all other respects, so as to secure compliance with the requirements of the Bathing Water Directive.

(2) In this regulation, “relevant functions” means functions, so far as relevant, under the enactments listed in Schedule 2 (relevant functions) to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003<sup>(7)</sup>.

(3) In the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003, in Schedule 2 (relevant functions), in Part 2 (subordinate instruments), after paragraph 28, insert—

“**29.** The Bathing Water Regulations 2008.”

(4) In the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004<sup>(8)</sup>, in Schedule 2 (relevant functions), in Part 2 (subordinate instruments), after paragraph 27, insert—

“**28.** The Bathing Water Regulations 2008.”

(5) The Agency must promptly provide—

- (a) to the appropriate Minister such information about the quality of bathing waters as the appropriate Minister may by notice reasonably require;
- (b) to a local authority such information about the quality of the bathing waters in its area as it may by notice reasonably require; and
- (c) to a private controller such information as the Agency considers the private controller requires for the purposes of the private controller’s functions under these Regulations.

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<sup>(5)</sup> The list is also available from the Welsh Assembly Government’s website at [www.wales.gov.uk](http://www.wales.gov.uk).

<sup>(6)</sup> 1991 c. 57.

<sup>(7)</sup> S.I. 2003/3242.

<sup>(8)</sup> S.I. 2004/99.

## **Public participation**

6.—(1) The Secretary of State, the Welsh Ministers and the Agency must—

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

(2) The Secretary of State, the Welsh Ministers and the Agency must take due account of any suggestions, comments or complaints they have obtained from the public when exercising their respective functions under these Regulations.