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STATUTORY INSTRUMENTS

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**2008 No. 1097**

**The Bathing Water Regulations 2008**

**PART 5**

**MANAGEMENT OF BATHING WATERS**

**Management measures at bathing waters subject to pollution incidents**

- 12.**—(1) This regulation applies where a body or person mentioned in paragraph (2) is aware of—
- (a) an incident of contamination by intestinal enterococci or *Escherichia coli*, other than an incident of short-term pollution to which regulation 15 applies, that the body or person considers may pose a risk to bathing water quality and bathers' health;
  - (b) a cyanobacterial proliferation which the body or person considers may pose a risk to bathers' health;
  - (c) a proliferation of macro-algae or marine phytoplankton which the body or person considers is unacceptable or may pose a risk to bathers' health;
  - (d) the presence of waste, including tarry residues, glass, plastic or rubber; or
  - (e) any other incident, other than an incident of short-term pollution to which regulation 15 applies, that the body or person considers may pose a risk to bathing water quality and bathers' health.
- (2) The bodies and persons are:
- (a) the Agency;
  - (b) a sewerage undertaker;
  - (c) a local authority, or
  - (d) in the case of a bathing water that has a private controller, the private controller.
- (3) The Agency must promptly—
- (a) consult—
    - (i) the local authority in whose area the bathing water is situated;
    - (ii) if the bathing water is controlled by a private controller, the private controller; and
    - (iii) if necessary, the local sewerage undertaker; and
  - (b) take, or cause to be taken, such Agency management measures as the Agency considers adequate to protect bathers' health.
- (4) The sewerage undertaker must, if necessary, promptly consult—
- (a) the Agency;
  - (b) the local authority in whose area the bathing water is situated; and
  - (c) where the bathing water is controlled by a private controller, the private controller.
- (5) If the bathing water is controlled by a local authority, the local authority must promptly—

- (a) consult the Agency so far as necessary;
  - (b) notify the local sewerage undertaker, if necessary;
  - (c) take such local authority management measures as it considers adequate to protect bathers' health; and
  - (d) in the case of pollution by waste, remove the waste.
- (6) If the bathing water is controlled by a private controller—
- (a) the local authority must, where necessary, promptly—
    - (i) consult the Agency and the private controller; and
    - (ii) notify the local sewerage undertaker; and
  - (b) the private controller must promptly—
    - (i) consult the Agency and the local authority so far as necessary;
    - (ii) take such private controller management measures as the controller considers adequate to protect bathers' health; and
    - (iii) in the case of pollution by waste, remove the waste.

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

- 13.—**(1) Where the Agency classifies a bathing water as “poor” under regulation 11—
- (a) the Agency must, during the bathing season following this classification—
    - (i) take, or cause to be taken, such Agency management measures at the bathing water as it considers adequate with a view to preventing bathers' exposure to pollution;
    - (ii) notify the local authority or private controller that controls the bathing water; and
    - (iii) identify the reasons why the bathing water failed to achieve a classification of “sufficient”;
  - (b) if the bathing water is controlled by a local authority, the local authority must—
    - (i) take such local authority management measures there as 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; and
  - (c) if the bathing water is controlled by a private controller, the private controller must—
    - (i) take such private controller management measures there as the private controller 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) Paragraphs (3) to (5) apply to a bathing water if—
- (a) the Agency has classified the bathing water as “poor” under regulation 11 for five consecutive years; or
  - (b) having consulted the local authority or private controller that controls the bathing water, the Agency advises the appropriate Minister that it considers that it would be infeasible or disproportionately expensive for the bathing water to achieve a classification of “sufficient” and the appropriate Minister accepts that advice.
- (3) The Agency must notify the local authority or private controller that controls the bathing water that permanent advice against bathing must be introduced there, giving reasons.

(4) If the bathing water is controlled by a local authority, the local authority must introduce permanent advice against bathing there by means of public information under regulation 9.

(5) If the bathing water is controlled by a private controller, the private controller must introduce permanent advice against bathing there by means of public information under regulation 9.

### **Public information and general provisions about short-term pollution**

**14.**—(1) This regulation applies where, having consulted the local authority or private controller that controls a bathing water, the Agency has established relevant procedures for short-term pollution at the bathing water.

(2) The Agency must—

- (a) ensure that the bathing water profile established under regulation 7 contains—
  - (i) information as to the anticipated nature, frequency and duration of expected short-term pollution;
  - (ii) details of any remaining causes of short-term pollution;
  - (iii) details of the Agency management measures taken and the time schedule for the elimination of the causes of the short-term pollution; and
  - (iv) information on relevant procedures for short-term pollution taken during a short-term pollution incident and the identity and contact details of any person responsible for taking such action;
- (b) notify the local authority or private controller that controls the bathing water when short-term pollution is predicted there; and
- (c) publish on its website the following information—
  - (i) the conditions likely to lead to short-term pollution at the bathing water;
  - (ii) the likelihood of short-term pollution there and its likely duration;
  - (iii) the causes of short-term pollution there;
  - (iv) the relevant procedures for short-term pollution in place there; and
  - (v) the information referred to in paragraphs (3) and (4).

(3) If the bathing water is controlled by a local authority, the local authority must ensure that the following information is available during the bathing season in the place referred to in regulation 9(1)—

- (a) 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; and
- (b) a warning whenever short-term pollution is predicted or present there.

(4) If the bathing water is controlled by a private controller, the private controller must ensure that the following information is available during the bathing season in the place referred to in regulation 9(1)—

- (a) 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; and
- (b) a warning whenever short-term pollution is predicted or present there.

(5) In the event of short-term pollution, the Agency must take one additional sample, as soon as possible after the pollution incident is presumed to have ended, to verify that it has in fact ended.

(6) The Agency may exclude samples taken during short-term pollution from the set of bathing water quality data for the bathing water if—

- (a) as soon as possible after the end of a short-term pollution incident, the Agency has taken the additional sample required by paragraph (5) in order to verify that the incident has ended;
  - (b) the Agency has not included that sample in the set of bathing water quality data for the bathing water; and
  - (c) seven days after the end of a short-term pollution incident, the Agency has, if necessary, taken an additional sample to ensure that it has the minimum number required for the bathing water for the bathing season.
- (7) The Agency must not classify the bathing water under regulation 11 as “sufficient”, “good” or “excellent” unless the number of samples disregarded under paragraph (6) represents no more than the greater of—
- (a) 15% of the total number of samples provided for in the monitoring calendars established under paragraph 2 of Schedule 3 for the same period; and
  - (b) one sample per bathing season.

**Relevant procedures for short-term pollution**

15. Where there is short-term pollution at a bathing water to which regulation 14 applies—
- (a) the Agency must—
    - (i) notify the local authority or private controller that controls the bathing water; and
    - (ii) operate, or cause to be operated, any relevant procedures for short-term pollution which are not in operation for which it is responsible;
  - (b) where the bathing water is controlled by a local authority, the local authority must—
    - (i) take the local authority management measures which form part of the relevant procedures for short-term pollution there; and
    - (ii) ensure that notification that the bathing water is affected by short-term pollution is available in the place referred to in regulation 9(1); and
  - (c) where the bathing water is controlled by a private controller, the private controller must—
    - (i) take the private controller management measures which form part of the relevant procedures for short-term pollution there; and
    - (ii) ensure that notification that the bathing water is affected by short-term pollution is available in the place referred to in regulation 9(1).