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STATUTORY INSTRUMENTS

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**2013 No. 1675**

**The Bathing Water Regulations 2013**

**PART 1**

**GENERAL PROVISIONS**

**Citation, commencement and extent**

- 1.—(1) These Regulations may be cited as the Bathing Water Regulations 2013.
- (2) The following provisions come into force on 31st July 2013—
- (a) this regulation and regulations 2 to 9;
  - (b) in regulation 14—
    - (i) paragraph (1) in so far as it relates to paragraphs (2) to (5);
    - (ii) paragraphs (2) to (5);
  - (c) regulations 15 to 18;
  - (d) in regulation 19—
    - (i) paragraph (1);
    - (ii) paragraph 3(b) and (c);
    - (iii) paragraph (4)(b);
  - (e) regulation 20.
- (3) All remaining provisions come into force on 24th March 2015.
- (4) Subject to paragraph (5), these Regulations extend to England and Wales only.
- (5) 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 appropriate agency would not expect to occur, on average, more than once every four years;
- “the appropriate agency” means—
- (a) in relation to surface waters in England, the Environment Agency;
  - (b) in relation to surface waters in Wales, the Natural Resources Body for Wales;
- “appropriate agency management measures” means any measures taken by the appropriate agency in relation to a bathing water—
- (a) to identify and assess the causes of pollution that might, in the particular circumstances of each case, affect bathing waters and impair bathers’ health;

(b) to reduce the risk of pollution (being measures within the appropriate agency’s relevant functions referred to in regulation 5);

(c) to issue advice against bathing; or

(d) under regulations 7 to 11;

“the appropriate Minister” means—

(a) in relation to surface waters in England, the Secretary of State;

(b) in relation to surface waters in Wales, 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 and listed at Schedule 2, at which permanent advice against bathing is not currently in place under regulation 13;

“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](#)(1);

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

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

“the Decision” means the 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(2);

“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, parish or town, 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 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 (including issuing an advice against bathing), bathers’ exposure to pollution;

“management measures” means appropriate agency management measures or local authority 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 any of the following—

(a) intestinal enterococci or *Escherichia coli*;

(b) cyanobacterial proliferation;

(c) a proliferation of macro-algae or marine phytoplankton;

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(1) OJ No L 64, 4.3.2006, p.37, as amended by Regulation (EC) No 596/2009 (OJ No L 188, 18.7.2009, p.14).

(2) OJ No L 143, 31.5.2011, p.38.

(d) waste, including tarry residues, glass, plastic or rubber;

“relevant land” is land which is—

- (a) normally used to access a bathing water from the landward side, and
- (b) immediately adjacent to that bathing water or, where the bathing water is tidal, immediately above the high water mark;

“relevant procedures for short-term pollution” means—

- (a) in relation to the appropriate agency, any measures, including appropriate agency management measures, to prevent reduce or eliminate the causes of pollution and may include surveillance, early warning systems or monitoring with a view to preventing bathers’ exposure to pollution by means of a warning, or, where necessary, an advice against bathing; and
- (b) in relation to a local authority, any measures, including local authority management measures, to notify the public that the bathing water is affected by short-term pollution;

“set of bathing water quality data” means data obtained from results of samples taken under Part 1 of Schedule 4;

“short-term pollution” means contamination by intestinal enterococci or *Escherichia coli* where the appropriate 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(3).

(2) In these Regulations, “coastal water”, “groundwater”, “inland water”, “lake”, “river”, “surface water” and “transitional waters” have the same meaning as in [Directive 2000/60/EC](#) of the European Parliament and of the Council establishing a framework for Community action in the field of water policy, and are listed in Schedule 1 to these Regulations.

(3) For the purposes of these Regulations, a local authority controls a bathing water if the relevant land relating to that bathing water is located within its area.

### **Identification of bathing waters**

3.—(1) Part 1 of Schedule 2 lists the surface waters that have been identified in England, other than excluded pools and waters, at which the Secretary of State expects a large number of people to bathe, having regard in particular to past trends and any infrastructure or facilities provided, or other measures taken, to promote bathing at those waters.

(2) Part 2 of Schedule 2 lists the surface waters that have been identified in Wales, other than excluded pools and waters, at which the Welsh Ministers expect a large number of people to bathe, having regard in particular to past trends and any infrastructure or facilities provided, or other measures taken, to promote bathing at those waters.

(3) For the purposes of paragraphs (1) and (2), excluded pools and waters are—

- (a) swimming pools and spa pools;
- (b) confined waters subject to treatment or used for therapeutic purposes;
- (c) artificially created confined waters separated from surface water and groundwater.

(4) The Secretary of State must publish the following information annually, and in accordance with paragraph (6)—

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(3) [2006 c.32.](#)

- (a) a complete list of all bathing waters in England stating their classifications;
  - (b) details of all surface waters in England at which permanent advice against bathing is currently in place under regulation 13, including, in relation to each such surface water, the reasons for that advice.
- (5) The Welsh Ministers must publish the following information annually, and in accordance with paragraph (6)—
- (a) a complete list of all bathing waters in Wales stating their classifications;
  - (b) details of all surface waters in Wales at which permanent advice against bathing is currently in place under regulation 13, including, in relation to each such surface water, the reasons for that advice.
- (6) The information to be published under paragraphs (4) and (5) must be actively disseminated before the start of the bathing season using appropriate media and technologies including the internet, and in such languages as the appropriate Minister considers appropriate.
- (7) For the purposes of giving effect to the Bathing Water Directive, section 104(1) of the Water Resources Act 1991(4) (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, the Environment Agency and the Natural Resources Body for Wales 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 at least 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 ensure 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 (enactments) to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003(5).
- (3) The appropriate 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; and
  - (b) to a local authority such information about the quality of the bathing waters that it controls as that local authority may by notice reasonably require.

#### **Public participation**

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

(4) 1991 c. 57.

(5) S.I. 2003/3242, as amended by: S.I.2007/3538, 2008/10972010/675, 2011/556; 2013/755 (W. 90). See also regulation 19(3) of these Regulations for further amendments to this instrument.

- (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 appropriate 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.

## PART 2

### BATHING WATER PROFILES

#### **Bathing water profiles**

- 7.—(1) The appropriate agency must—
- (a) ensure that prior to the start of each bathing season, it has established a bathing water profile for every bathing water; and
  - (b) keep every bathing water profile under review.
- (2) The appropriate agency may combine the bathing water profiles of contiguous bathing waters.
- (3) When complying with paragraph (1), the appropriate agency must take into account the data which it has obtained or analysed under—
- (a) the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003;
  - (b) the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003<sup>(6)</sup>; or
  - (c) the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004<sup>(7)</sup>.
- (4) Schedule 3 (bathing water profiles) has effect.

## PART 3

### MONITORING ETC. OF BATHING WATERS AND PUBLIC INFORMATION

#### **Monitoring etc.**

- 8.—(1) The appropriate agency must establish a monitoring programme for every bathing water.
- (2) The monitoring programme for intestinal enterococci and *Escherichia coli* must be in accordance with Part 1 of Schedule 4.
- (3) The appropriate agency must undertake appropriate monitoring for cyanobacteria in accordance with Part 2 of Schedule 4.
- (4) The appropriate agency must undertake investigations for macro-algae and marine phytoplankton in accordance with Part 3 of Schedule 4.

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<sup>(6)</sup> S.I. 2003/3245.

<sup>(7)</sup> S.I. 2004/99. This instrument is amended by regulation 19(4) of these Regulations.

(5) The appropriate agency must undertake visual inspections for waste, including tarry residues, glass, plastic or rubber in accordance with Part 4 of Schedule 4.

(6) After the end of every bathing season, the appropriate agency must notify the appropriate Minister, giving reasons, if it has suspended the monitoring calendar in accordance with paragraph 2 of Schedule 4.

### **Public information**

9.—(1) Every local authority that controls a bathing water must ensure that the following information about the bathing water is actively disseminated and promptly made available to the public during the bathing season in an easily accessible place in the near vicinity of the bathing water—

- (a) the bathing water’s current classification pursuant to regulation 11, represented by a symbol in accordance with Part 2 of the Annex to the Decision;
- (b) any advice against bathing which has been issued there, represented by a symbol in accordance with Part 1 of the Annex to the Decision, and giving reasons;
- (c) a general description of the bathing water, in non-technical language, based on its bathing water profile;
- (d) information on the nature and expected duration of abnormal situations there; and
- (e) an indication of the sources of more complete information published in accordance with paragraph (2).

(2) In relation to every bathing water, the appropriate agency must use appropriate media and technologies including the internet to actively and promptly disseminate the following information in such languages as the appropriate agency considers appropriate—

- (a) the information referred to in paragraph (1);
- (b) before the start of every bathing season, the bathing water’s classification in accordance with regulation 11 over the last three years;
- (c) the current bathing water profile;
- (d) as soon as possible after the completion of the analysis under Schedule 4, the results of the monitoring carried out in accordance with regulation 8(2) since the beginning of the current bathing season;
- (e) where the bathing water is classified as “poor” under regulation 11, information as to—
  - (i) the causes of pollution there, and
  - (ii) the management measures being taken there under regulation 13; and
- (f) information as to incidences of short-term pollution so far as required by regulation 14(2)(c)(i) to (v).

(3) The appropriate agency must—

- (a) prepare a general description of every bathing water for use under paragraph (1)(c); and
- (b) make the descriptions available to local authorities.

(4) Public information under these Regulations must—

- (a) wherever possible, be provided using a geographic information system; and
- (b) be presented in a clear and coherent manner.

## PART 4

### BATHING WATER ASSESSMENT AND CLASSIFICATION

#### Assessment

**10.**—(1) At the end of every bathing season, for every bathing water, the appropriate agency must—

- (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, if the appropriate agency so determines in accordance with paragraph (3); or
  - (c) the number of immediately preceding bathing seasons, being less than three, that the appropriate agency determines in accordance with paragraph (4).
- (3) The appropriate agency may make a determination under paragraph (2)(b) where—
- (a) it has consulted the appropriate Minister; and
  - (b) it is at least five years since the last change in the relevant assessment period.
- (4) The appropriate agency may make a determination under paragraph (2)(c), if—
- (a) it has consulted the appropriate Minister;
  - (b) the set of bathing water quality data used is based on at least 16 samples; and
  - (c) it considers that any factors identified in the bathing water profile as likely to affect the classification of the bathing water under regulation 11 have changed, and the set of bathing water quality data used is based only on samples taken since those factors have changed.

#### Classification

**11.**—(1) On the basis of each assessment made under regulation 10, the appropriate agency must classify every bathing water as “poor”, “sufficient”, “good” or “excellent” in accordance with Schedule 5.

(2) The first classification of bathing waters under this regulation must be completed at the end of the bathing water season in 2015.

## PART 5

### MANAGEMENT OF BATHING WATERS

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

- 12.**—(1) This regulation applies where a body 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 considers may pose a risk to bathing water quality and bathers’ health;
  - (b) a cyanobacterial proliferation which the body considers may pose a risk to bathers’ health;

- (c) a proliferation of macro-algae or marine phytoplankton which the body 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 considers may pose a risk to bathing water quality and bathers' health.
- (2) The bodies are:
- (a) the appropriate agency;
  - (b) a sewerage undertaker;
  - (c) a local authority.
- (3) The appropriate agency must promptly or, in the case of a cyanobacterial proliferation under paragraph (1)(b), immediately—
- (a) consult—
    - (i) the local authority that controls the bathing water, and
    - (ii) if necessary, the local sewerage undertaker;
  - (b) use appropriate media and technologies to actively and promptly disseminate information to the public, in such languages as are appropriate, and take such other appropriate agency management measures as it considers appropriate, to prevent exposing bathers to identified or presumed health risks.
- (4) The sewerage undertaker must, if necessary, promptly consult—
- (a) the appropriate agency, and
  - (b) the local authority that controls the bathing water.
- (5) The local authority must promptly or, in the case of a cyanobacterial proliferation under paragraph (1)(b), immediately—
- (a) consult the appropriate agency so far as necessary;
  - (b) notify the local sewerage undertaker, if necessary;
  - (c) ensure that appropriate information is actively disseminated and promptly made available to the public during the bathing season in an easily accessible place in the near vicinity of the bathing water, and take such other local authority management measures as it considers appropriate, to prevent exposing bathers to identified or presumed health risks; and
  - (d) in the case of pollution by waste, remove the waste.

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

- 13.—**(1) Where the appropriate agency classifies a bathing water as “poor” under regulation 11—
- (a) the appropriate agency must, during the bathing season following this classification—
    - (i) take or cause to be taken appropriate agency management measures at the bathing water to prevent, reduce or eliminate (as appropriate) the causes of pollution;
    - (ii) take, or cause to be taken appropriate agency management measures at the bathing water as it considers adequate with a view to preventing bathers' exposure to pollution;
    - (iii) notify the local authority that controls the bathing water; and
    - (iv) identify the reasons why the bathing water failed to achieve a classification of “sufficient”;



- (b) the local authority that controls the bathing water must issue an advice against bathing at that bathing waters, and must take such local authority management measures as it considers adequate, with a view to preventing bathers' exposure to pollution.
- (2) The appropriate agency must issue permanent advice against bathing in respect of a bathing water if—
- (a) the appropriate agency has classified the bathing water as “poor” under regulation 11 for five consecutive years; or
  - (b) having consulted the local authority that controls the bathing water, the appropriate 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) Where permanent advice against bathing has been issued under paragraph (2) in relation to a bathing water, the appropriate agency must—
- (a) notify the local authority that controlled the former bathing water—
    - (i) that permanent advice against bathing has been issued there, giving reasons; and
    - (ii) that it is no longer a bathing water; and
  - (b) use appropriate media and technologies including the internet to actively and promptly disseminate all the following information to the public, in such languages as the appropriate agency considers appropriate, in relation to the former bathing water—
    - (i) that permanent advice against bathing has been issued there;
    - (ii) the fact that it is no longer a bathing water;
    - (iii) the reasons for its declassification.
- (4) When a local authority has received notification under paragraph (3)(a), it must ensure that the following information in relation to the former bathing water is actively disseminated and promptly made available to the public in an easily accessible place in the near vicinity of that former bathing water during the bathing season—
- (a) that permanent advice against bathing has been issued there, represented by a symbol in accordance with Part 1 of the Annex to the Decision;
  - (b) the fact that it is no longer a bathing water;
  - (c) the reasons for the declassification.

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

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

- (2) The appropriate 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 appropriate 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 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 paragraph (3).
- (3) The local authority must ensure that the following information is actively disseminated and promptly made available to the public during the bathing season in an easily accessible place in the near vicinity of the bathing water—
  - (a) an indication of the number of days for which advice against bathing was issued 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) In the event of short-term pollution, the appropriate 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.
- (5) The appropriate agency may disregard 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 appropriate agency has taken the additional sample required by paragraph (4) in order to verify that the incident has ended;
  - (b) the appropriate 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 appropriate 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.
- (6) The appropriate agency must not classify the bathing water under regulation 11 as “sufficient”, “good” or “excellent” unless the number of samples disregarded under paragraph (5) 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 4 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 appropriate agency must—
    - (i) notify the local authority 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 and for which it is responsible;
  - (b) 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 actively disseminated and promptly made available to the public during the bathing season in an easily accessible place in the near vicinity of the bathing water.

## PART 6

### FINAL PROVISIONS

#### **Enforcement**

**16.**—(1) If the appropriate Minister becomes aware that a local authority has failed in its duties under these Regulations, the appropriate Minister may by notice to the local authority specify—

- (a) measures that the local authority must take to ensure that the local authority complies with these Regulations; and
- (b) the deadline by which those measures must be taken.

(2) If the appropriate Minister becomes aware that a private operator has caused or is continuing to cause a local authority to fail in its duties under these Regulations, the appropriate Minister may by notice to the private operator specify—

- (a) measures that the private operator must take; and
- (b) the deadline by which those measures must be taken.

(3) The appropriate Minister must consider any representations about the notice received from the local authority or private operator to whom the notice is addressed, and may amend or withdraw the notice.

(4) If the specified measures have not been taken by the specified deadline, the appropriate Minister may—

- (a) take the measures; or
- (b) apply to the High Court for an order requiring (as the case may be)—
  - (i) the local authority to comply with the notice or otherwise carry out its duties under these Regulations; or
  - (ii) the private operator to comply with that notice.

(5) Section 108 of the Environment Act 1995<sup>(8)</sup> (powers of enforcing authorities and persons authorised by them) has effect in relation to England and Wales as if—

- (a) “pollution control functions” in relation to the Secretary of State, the Welsh Ministers, the Environment Agency and the Natural Resources Body for Wales included their respective functions under these Regulations; and
- (b) the powers in paragraph (4) of that section included the power to take any measure required of a local authority under these Regulations.

(6) Section 202(2) of the Water Resources Act 1991<sup>(9)</sup> (information in connection with the control of pollution) has effect as if it conferred power on the Secretary of State, the Welsh Ministers, the Environment Agency and the Natural Resources Body for Wales to require the furnishing of information reasonably required for the purposes of giving effect to the Bathing Water Directive.

(7) In this regulation, “private operator” means a person, other than a local authority, who controls the relevant land in relation to a bathing water.

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<sup>(8)</sup> 1995 c.25, as amended by S.I. 2013/755 (W. 90); there are other amending instruments but none is relevant.

<sup>(9)</sup> 1991 c.57, as amended S.I. 2013/755 (W. 90).

**Guidance**

17. The appropriate Minister may give guidance to the appropriate agency or any local authority with respect to the practical implementation of the Bathing Water Directive, and the appropriate agency or local authority (as the case may be) to whom guidance is given must have regard to it.

**Amendment of the Bathing Waters (Classification) Regulations 1991 and transitional provision**

18.—(1) In the Bathing Waters (Classification) Regulations 1991(10), in regulation 2(4), for the words from “Schedule 3” to the end substitute “Schedule 4 to the Bathing Water Regulations 2013.”

(2) Every notice served, or deemed to have been served, on the appropriate agency under section 83 of the Water Resources Act 1991(11) (water quality objectives) in relation to classification BW1, and every notice which has effect as if so served, has effect subject to the transitional provision in paragraph (1).

(3) The National Rivers Authority (Bathing Waters) Directions 1992(12) have effect as if—

(a) the only entries in the Annex to Council Directive 76/160/EEC concerning the quality of bathing water(13) were intestinal enterococci or *Escherichia coli*; and

(b) conformity with the values which appear in column G of that Annex were met where—

(i) at least 90% of samples of waters taken and tested in accordance with these Regulations for intestinal enterococci meet the parametric value of 100 per 100 millilitres; and

(ii) at least 80% of samples of waters taken and tested in accordance with these Regulations for *Escherichia coli* meet the parametric value of 100 per 100 millilitres.

(4) Until the appropriate agency classifies a bathing water under regulation 11, for the purposes of regulation 9, the appropriate agency must, subject to the transitional provision in this regulation, classify the bathing water by reference to whether it conforms to the values in column I or G of the Annex to Council Directive 76/160/EEC.

**Revocations, other amendments and savings**

19.—(1) The Bathing Water Regulations 2008(14) are revoked.

(2) The Bathing Waters (Classification) Regulations 1991 and the Bathing Waters (Classification) (England) Regulations 2003(15) are revoked.

(10) S.I. 1991/1597, as amended by S.I. 2008/1097. The Bathing Water (Classification) Regulations 1991 will be revoked by paragraph (2) of regulation 19 when that paragraph comes into force.

(11) 1991 c.57, as amended by S.I. 2013/755 (W. 90).

(12) Copies are available from the Department for Environment, Food and Rural Affairs, Bathing Waters Team, Area 3D Nobel House, 17 Smith Square, London SW1P 3JR. By virtue of section 2(1)(a)(ii) of the Environment Act 1995 (c. 25), the National Rivers Authority’s functions under or by virtue of Part III of the Water Resources Act 1991 (c. 57) in respect of the control of pollution of water resources in England and Wales were transferred to the Environment Agency. The National Rivers Authority (Bathing Waters) Directions 1992 (“the Direction”) deal with the exercise of functions under that Part. Section 55(3),(4)(d) and (6) of the Environment Act 1995 have the effect that the Direction applies as if given to the Environment Agency. In relation to Wales, the Environment Agency’s functions under the relevant provisions of Part III of the Water Resources Act 1991 were subsequently transferred to the Natural Resources Body for Wales by virtue of article 4(1) of, and paragraphs 272 to 274 of Schedule 2 to, the Natural Resources Body for Wales (Functions) Order 2013 (W.S.I. 2013/755 (W. 90)). Article 10 of, and paragraphs 2(3) and (4) of Schedule 7 to, that Order have the effect that, in relation to Wales, the Direction applies as if given to the Natural Resources Body for Wales.

(13) OJ No L 31, 5.2.1976, p.1, as last amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council (OJ No L 311, 21.11.2008, p.1).

(14) S.I. 2008/1097, as amended by S.I. 2013/755 (W. 90).

(15) S.I. 2003/1238.

(3) In the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003<sup>(16)</sup>, in Schedule 2 (enactments), in Part 2 (subordinate instruments)—

- (a) omit paragraphs 11 and 26;
- (b) omit paragraph 29;
- (c) after paragraph 32 insert—

“33. The Bathing Water Regulations 2013”.

(4) In the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004<sup>(17)</sup>, in Schedule 2 (enactments), in Part 2 (subordinate instruments)—

- (a) omit paragraphs 11 and 26;
- (b) for paragraph 28 substitute—

“28. The Bathing Water Regulations 2013.”

## Review

20.—(1) Before the end of each review period, the Secretary of State must—

- (a) carry out a review of these Regulations as they apply to England;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as reasonable, have regard to how the Bathing Water Directive is implemented in other member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way.

(4) In this regulation “review period” means the period of five years beginning with the day on which this regulation comes into force, and, subject to paragraph (5), each successive period of five years.

(5) If a report under this regulation is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

1st July 2013

3rd July 2013

*Richard Benyon*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs  
*Alun Davies*  
Minister for Natural Resources and Food, one of  
the Welsh Ministers

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<sup>(16)</sup> S.I. 2003/3242, as amended by S.I. 2007/3538, 2008/1097, 2010/675, 2011/556; 2013/755 (W. 90).

<sup>(17)</sup> S.I. 2004/99.