

**2013 No. 151**

**ENVIRONMENTAL PROTECTION**

**The Quality of Bathing Water (Amendment) Regulations  
(Northern Ireland) 2013**

*Made* - - - - 31st May 2013

*Coming into operation* - 26th June 2013

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

**Citation, commencement and interpretation**

1. These Regulations may be cited as the Quality of Bathing Water (Amendment) Regulations (Northern Ireland) 2013 and shall come into operation on 26<sup>th</sup> June 2013.

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

**Amendments to the Quality of Bathing Water Regulations (Northern Ireland) 2008**

3. The Quality of Bathing Water Regulations (Northern Ireland) 2008(d) are amended in accordance with regulations 4 to 12.

**Amendment of regulation 2**

4. In regulation 2 (interpretation)—

(a) in paragraph (2)—

(i) for the definition of “bathing water” substitute—

““bathing water” means the surface waters identified under regulation 3(1), other than excluded pools and waters, at which the Department 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;”;

(ii) after the definition of “cyanobacterial proliferation” insert—

““the Decision” means the Commission Implementing Decision 2011/321/EU of 27 May 2011 establishing, pursuant to the Bathing Water Directive, a symbol for

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(a) S.I. 2008/301

(b) 1972 c.68

(c) 1954 c.33 (N.I.)

(d) S.R. 2008 No.231

information to the public on bathing water classification and any bathing water prohibition or advice against bathing(a);”;

(iii) for the definition of “Departmental management measures” substitute—

““Departmental management measures” mean measures in relation to a bathing water taken by the Department—

- (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) under regulation 5 to reduce the risk of pollution; or
- (c) under regulations 7 to 12;

“excluded pools and waters” means—

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

”;

and

(iv) in the definition of “permanent advice against bathing” for “12(2)” substitute “14(2)”; and

(b) for paragraph (3) substitute—

“(3) In the following provisions, namely—

- (a) regulation 5(4);
- (b) regulation 10(2)(b);
- (c) regulation 13(1) and (2);
- (d) regulation 14(1), (3) and (4);
- (e) regulation 16; and
- (f) 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.”.

### **Amendment of regulation 3**

**5.** For regulation 3 (identification of bathing waters) substitute—

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

**3.—**(1) The Department shall identify all bathing waters in Northern Ireland on an annual basis.

(2) The Department shall list in Schedule 1 the bathing waters identified in paragraph (1).

(3) The Department shall publish the following information on an annual basis and in accordance with paragraph (4)—

- (a) a complete list of all bathing waters identified in paragraph (1);
- (b) details of all surface waters at which permanent advice against bathing has been issued (and not withdrawn) under regulation 14, including in relation to each surface water, the reasons for that advice.

(4) The information to be published under paragraph (3) shall be actively disseminated before the start of the bathing season using appropriate media and technologies including the internet, and in such languages as appropriate.”.

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(a) OJ No L143,31.5.2011, p.38-40

### **Amendment of regulation 7**

6. In regulation 7 (bathing water profiles) for paragraph (1) substitute—

“(1) The Department shall, in relation to every bathing water, in accordance with Schedule 2—

- (a) if it has not already done so, establish a bathing water profile before the start of the bathing season; and
- (b) keep every bathing water profile under review.”.

### **Amendment of regulation 9**

7. In regulation 9 (public information: duties of bathing water operator), for paragraph (1) substitute—

“(1) Every bathing water operator shall ensure that the following information about its bathing water is actively disseminated and promptly made available 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 12, represented by a symbol in accordance with Part 2 of the Annex to the Decision;
- (b) any advice against bathing which has been introduced 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) where the bathing water is subject to or likely to be subject to 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; and
  - (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.”.

### **Amendment of regulation 10**

8. In regulation 10 (public information: duties of the Department), for paragraph (1) substitute—

“(1) The Department shall use appropriate media and technologies including the internet to actively and promptly disseminate the information specified in regulation 9(1) together with the following additional 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—

- (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 a bathing water is subject to or likely to be subject to incidents of short-term pollution—

- (i) the conditions likely to lead to short-term pollution there;
- (ii) the likelihood of the 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, to prevent, reduce or eliminate the causes of pollution.”.

#### **Amendment of regulation 12**

9. For regulation 12 (classification) substitute—

##### **“Classification**

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.”.

#### **Amendment of regulation 13**

10. In regulation 13 (management measures at bathing waters subject to pollution incidents)—

(a) for paragraph (2) substitute—

“(2) The Department shall promptly or, in the case of a cyanobacterial proliferation under paragraph (1)(a), immediately—

- (a) consult the bathing water operator; and
- (b) use appropriate media and technologies to actively and promptly disseminate information to the public in such languages in addition to English as are appropriate, having regard to the location of the bathing water and ease of understanding and take such other Departmental management measures as it considers appropriate to prevent exposing bathers to identified or presumed health risks.”; and

(b) in paragraph (3)—

(i) for the words from “Where a bathing water” to “promptly” substitute “ The bathing water operator shall promptly or, in the case of a cyanobacterial proliferation under paragraph (1)(a), immediately”; and

(ii) for sub-paragraph (b), substitute—

“(b) 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 operator management measures there as it considers appropriate to prevent exposing bathers to identified or presumed health risks; and”.

#### **Amendment of regulation 14**

11. For regulation 14 (additional management measures at “poor” bathing waters) substitute —

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

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."

#### **Amendment of regulation 15**

**12.** In regulation 15 (additional management measures at bathing waters likely to be subject to incidents of short-term pollution) substitute—

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

- 15.** Where a bathing water is subject to or likely to be subject to short-term pollution—
- (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.”.

Sealed with the Official Seal of the Department of the Environment on 31 May 2013.



*Terry A'Hearn*

A senior officer of the Department of the Environment

## **EXPLANATORY NOTE**

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

These Regulations amend The Quality of Bathing Water Regulations (Northern Ireland) 2008 in the following ways.

Regulation 3 is amended so that the Department must annually publish information regarding bathing waters.

Regulation 7 is amended so that the Department must establish a bathing water profile for every bathing water before the start of the bathing season.

Regulation 9 is amended to make reference to the symbols required to be displayed in accordance with the Commission Implementing Decision (2011/321/EU) of 27 May 2011 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 water prohibition or advice against bathing.

Regulation 10 is amended to clarify how the Department shall disseminate public information in regard to bathing waters, including information on short-term pollution incidents and management measures being taken.

Regulation 13 is amended so that the Department must use appropriate media and technologies to actively and promptly disseminate information during pollution incidents.

Regulation 14 is amended to clarify the actions that must be taken by the Department and by bathing water operators when permanent advice against bathing has been issued.

Regulation 15 is amended to clarify when additional management measures in regard to short-term pollution shall be taken at bathing waters.

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