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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 170**

**The Bathing Waters (Scotland) Regulations 2008**

**PART 5**

**BATHING WATER ASSESSMENT AND CLASSIFICATION**

**Assessment**

- 9.—(1) At the end of every bathing season, for every bathing water SEPA 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) The obligation in paragraph (1)(a) is to apply for the first time at the end of the 2012 bathing season.
- (3) The obligation in paragraph (1)(b) is to apply for the first time from the end of the 2015 bathing season.
- (4) In this regulation, “a set of bathing water quality data for that season” comprises of samples collected in compliance with regulation 7(2)(a), which number at least:—
- (a) 3 samples, where:—
    - (i) the bathing season does not exceed 8 weeks, or
    - (ii) the bathing water is situated in a region subject to special geographical constraints; or
  - (b) 4 samples, in any other case.
- (5) In this regulation, the “relevant assessment period” is—
- (a) the immediately preceding 3 bathing seasons;
  - (b) where SEPA so decides in accordance with paragraph (7), the immediately preceding 2 bathing seasons; or
  - (c) where SEPA so decides in accordance with paragraph (8), the number of immediately preceding bathing seasons, being less than 3, that SEPA may determine in accordance with paragraph (9) or (10), as the case may be.
- (6) In this regulation the “set of bathing water quality data compiled in relation to that season and the relevant assessment period” comprises of at least—
- (a) in a case where the bathing water is situated in a region subject to special geographical constraints, 12 samples, and
  - (b) in any other case—
    - (i) 16 samples, where the bathing season is in excess of 8 weeks; or
    - (ii) 8 samples, where the bathing season does not exceed 8 weeks.
- (7) SEPA may make a decision under paragraph (5)(b) where—
- (a) it has consulted the Scottish Ministers; and

- (b) it is at least 5 years since the last change in the relevant assessment period.
- (8) SEPA may make a decision under paragraph (5)(c)–
  - (a) where it has consulted the Scottish Ministers; and
  - (b) where–
    - (i) the Scottish Ministers designated the bathing water under regulation 3 less than 4 bathing seasons ago; or,
    - (ii) SEPA considers that changes have occurred that are likely to affect the classification of the bathing water under regulation 10.
- (9) In the case of paragraph (8)(b)(i) the number of immediately preceding seasons is the number of seasons (if any) since the bathing water was designated.
- (10) In the case of paragraph (8)(b)(ii) the number of immediately preceding seasons is limited to that number of seasons (if any) in which the water quality data was all collected after the changes referred to in that provision occurred.
- (11) The Scottish Ministers may, after consulting with SEPA–
  - (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 the light of those assessments where those bathing waters–
    - (i) are contiguous;
    - (ii) have received similar such assessments for the preceding 4 years; and
    - (iii) have bathing water profiles which identify a common pollution risk profile.

### **Classification**

- 10.**—(1) At the end of every bathing season from 2015 onwards, on the basis of the assessment made under regulation 9, SEPA must classify every bathing water as “poor”, “sufficient”, “good” or “excellent” in accordance with Schedule 3.
- (2) SEPA must issue permanent advice against bathing at a bathing water (which advice must also be notified to the relevant local authority and the relevant owner) if–
- (a) the bathing water is classified as “poor” for 5 consecutive years; or
  - (b) the Scottish Ministers, after consultation with SEPA, the relevant local authority and Scottish Water, consider that the achievement of a “sufficient” quality classification at that bathing water would be infeasible or disproportionately expensive.
- (3) SEPA may withdraw permanent advice against bathing at a former bathing water (as defined under regulation 8(9)) if the quality of the water is such that if it were a bathing water, it would be classified as “sufficient”, “good” or “excellent” in accordance with Schedule 3, and in those circumstances SEPA must advise–
- (a) the Scottish Ministers,
  - (b) the relevant local authority; and
  - (c) the relevant owner,
- that it has withdrawn its permanent advice against bathing.
- (4) SEPA shall advise the Scottish Ministers of all classifications made, and advice issued or withdrawn, by it under this regulation.