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STATUTORY INSTRUMENTS

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**2013 No. 1675**

**The Bathing Water Regulations 2013**

**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>(1)</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>(2)</sup> (information in connection with the control of pollution) has effect as if it conferred power on the Secretary of State, the Welsh Ministers,

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(1) 1995 c.25, as amended by S.I. 2013/755 (W. 90); there are other amending instruments but none is relevant.

(2) 1991 c.57, as amended S.I. 2013/755 (W. 90).

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.

### 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(3), 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(4) (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(5) have effect as if—

- (a) the only entries in the Annex to Council Directive 76/160/EEC concerning the quality of bathing water(6) 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(7) are revoked.

(3) 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.

(4) 1991 c.57, as amended by S.I. 2013/755 (W. 90).

(5) 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.

(6) 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).

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

(2) The Bathing Waters (Classification) Regulations 1991 and the Bathing Waters (Classification) (England) Regulations 2003<sup>(8)</sup> are revoked.

(3) In the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003<sup>(9)</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>(10)</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.

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<sup>(8)</sup> S.I. 2003/1238.

<sup>(9)</sup> S.I. 2003/3242, as amended by S.I.2007/3538, 2008/1097, 2010/675, 2011/556; 2013/755 (W. 90).

<sup>(10)</sup> S.I. 2004/99.