STATUTORY RULES OF NORTHERN IRELAND

2008 No. 231

ENVIRONMENTAL PROTECTION

The Quality of Bathing Water Regulations (Northern Ireland) 2008

Made - - - - 28th May 2008

Coming into operation in accordance with regulation 1

The Department of the Environment, being a department designated (**1**) for the purposes of section 2(2) of the European Communities Act 1972 (**2**) in relation to measures relating to the environment, acting in exercise of the powers conferred upon it by that section, makes the following Regulations:

PART 1

PRELIMINARY

Citation and commencement

1.—(1) These Regulations may be cited as the Quality of Bathing Water Regulations (Northern Ireland) 2008 and come into operation in accordance with paragraphs (2) to (6).

(2) Regulations 1- 6, regulation 19, paragraph 2 (1) (a) of Schedule 3 and regulation 8 insofar as it relates to that paragraph, come into operation on 30th June 2008.

(3) Regulation 7 comes into operation on 24th March 2011.

(4) Subject to paragraph (6), regulations 8 to10, 11(1) (a) and (5), 13, 15 to 18 and 20 come into operation on 24th March 2012.

(5) The remainder of regulation 11 and regulations 12 and 14 come into operation on 24th March 2015.

(6) Sub-paragraph (a) of paragraph (1) of regulation 9, regulation 10 insofar as it relates to that sub-paragraph and regulation 21 come into operation on 30th September 2015.

(**1**) S.I. 2008/301
(**2**) 1972 c.68

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (**3**) applies to these Regulations as it applies to an Act of the Northern Ireland Assembly.

(2) In these Regulations—

"abnormal situation" means an event or combination of events impacting on bathing water quality which the Department would not expect to occur, on average, more than once every four years;

"bathing season" means the period determined by the Department under regulation 4;

"bathing water" means a surface water specified in Schedule 1;

"Bathing Water Directive" means Directive 2006/7/EC(**4**) of the European Parliament and of the Council concerning the management of bathing water quality and repealing Directive 76/160/EEC(**5**);

"bathing water operator" means any person who controls the land immediately adjacent to a bathing water which is normally used to access the bathing water from the landward side and where the bathing water is tidal, the person who controls such land above the high water mark;

"bathing water profile" means the profile established under regulation 7;

"bathing water quality assessment" means the assessment carried out by the Department under regulation 11;

"cyanobacterial proliferation" means the accumulation of cyanobacteria in the form of a bloom, mat or scum;

"Department" means the Department of the Environment;

"Departmental management measures" means measures taken by the Department—

(a) under regulation 5 to reduce the risk of pollution; or

(b) under regulations 7 to 12;

"management measures" means Departmental management measures or operator management measures;

"operator management measures" means measures taken by a bathing water operator—

(a) to give information to the public under regulation 9; or

(b) to prevent bathers' exposure to pollution by means of public information under regulation 9;

"permanent advice against bathing" means advice issued, in relation to at least one whole bathing season, under regulation 12(2);

"relevant procedures for short-term pollution" means the following procedures for identifying the causes of, predicting and dealing with short-term pollution—

(a) management measures;

(b) surveillance and early warning systems with a view to preventing bathers' exposure to the short-term pollution by means of public information under regulations 9 and 10;

(c) measures in relation to a bathing water taken by the Department under regulation 5 to prevent, reduce or eliminate the causes of short-term pollution;

"set of bathing water quality data" means data obtained from results of samples taken under Part 1 of Schedule 3;

(**3**) 1954 c.33 (N.I.)
(**4**) OJ No. L64, 4.3.2006, p.37
(**5**) OJ No. L31,5.2.76, p.1

"short-term pollution" means contamination by Intestinal enterococci or Escherichia coli where the Department—

(a) has identified its 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;

"surface water", "groundwater", "inland water", "coastal water" and "transitional waters" have the same meaning as in the Water Framework Regulations;

"vicinity of the bathing water" means a position near to the bathing water, at a place likely to be noticed by persons as they make use of or enter onto the bathing water and, where the bathing water is tidal, higher than the High Spring Tide mark; and

"Water Framework Regulations" means the Water Environment (Water Framework Directive) Regulations (Northern Ireland) 2003(**6**).

(3) In the following regulations, namely—

(a) regulation 5(4)

(b) regulation 10(2)(b),

(c) regulation 12(2),

(d) regulation 13(1) and (2),

(e) regulation 14(a),

(f) regulation 16; and

(g) 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.

(4) Expressions used in these Regulations and not otherwise defined shall have the same meaning in these Regulations as they have in the Bathing Water Directive.

PART 2

GENERAL

Identification of bathing waters

3. The surface waters specified in Schedule 1 are bathing waters for the purposes of these Regulations.

Length of bathing season

4. For the purposes of these Regulations, the bathing season begins on the 1st June and ends at the end of the day on 15th September in each year.

General duties

5.—(1) The Department shall in the exercise of its relevant functions—

(a) ensure that by the end of the bathing season in 2015, all bathing waters are classified under regulation 12 as at least "sufficient";

(**6**) S.R.2003/544

(b) take such realistic and proportionate measures as it considers appropriate in order to increase the number of bathing waters classified under regulation 12 as "good" or "excellent"; and

(c) otherwise ensure compliance with the requirements of the Bathing Water Directive.

(2) In this regulation "relevant functions" means functions under these Regulations and so far as relevant the enactments specified in Schedule 2 to the Water Framework Regulations.

(3) In the Water Framework Regulations, in Schedule 2 (relevant functions), in Part 2, after paragraph 26 insert—

"27. The Quality of Bathing Water Regulations (Northern Ireland)2008.".

(4) The Department shall promptly provide a bathing water operator with such information as the Department considers the operator requires for the purpose of the operator's functions under these Regulations.

Public participation

6.—(1) The Department shall—

(a) encourage public participation in the exercise of its functions under these Regulations; and

(b) ensure that the public has an opportunity—

(i) to find out how to participate; and

(ii) to submit comments or complaints.

(2) The Department shall take due account of any information it has obtained from the public when exercising its functions under these Regulations.

Bathing water profiles

7.—(1) The Department shall establish and keep under review a bathing water profile for every bathing water in accordance with Schedule 2.

(2) The Department may combine the bathing water profiles of contiguous bathing waters.

(3) When complying with paragraph (1), the Department shall take into account the data which it has obtained or analysed under—

(a) The Quality of Bathing Water Regulations (Northern Ireland) 1993(**7**); and

(b) The Water Framework Regulations.

PART 3

MONITORING OF BATHING WATERS AND PUBLIC INFORMATION

Monitoring

8.—(1) The Department shall monitor and carry out investigations at bathing waters in accordance with this regulation.

(2) Monitoring for—

(a) Intestinal enterococci and Escherichia coli shall be in accordance with Part 1 of Schedule 3;

(b) cyanobacteria shall be in accordance with Part 2 of Schedule 3;

(**7**) S.R. 1993 No. 205

(c) other pollution, which takes the form of tarry residues, glass, plastic, rubber or any other waste, shall be carried out in accordance with Part 4 of Schedule 3.

(3) Investigation of macro-algae and marine phytoplankton proliferation shall be carried out in accordance with Part 3 of Schedule 3.

(4) The bathing water operator shall also monitor in accordance with Part 4 of Schedule 3.

Public information: duties of bathing water operator

9.—(1) Every bathing water operator shall ensure that the following information about its bathing water is available during the bathing season in an easily accessible place in the vicinity of the bathing water—

(a) the bathing water's current classification pursuant to regulation 12;

(b) whether any advice against bathing has been introduced there;

(c) a general description of the bathing water, in non-technical language, based on its bathing water profile;

(d) where its bathing water profile indicates that the bathing water is likely to be affected by 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;

(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.

(2) Paragraph (3)(a) and (b) of regulation 10 shall apply to information provided under this regulation as it applies to information provided under that regulation.

Public information: duties of the Department

10.—(1) The Department shall publish on its website the information specified in regulation 9(1) together with the following additional information, 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 its bathing water profile indicates that the bathing water is likely to be affected by incidents of short-term pollution—

(i) the conditions likely to lead to short-term pollution there;

(ii) the likelihood of 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—