



Elin Jones MS
Llywydd
Senedd Cymru
Cardiff Bay
Cardiff
CF99 1SN

14 May 2020

Dear Elin,

The Bathing Water (Amendment) (Wales) (Coronavirus) Regulations 2020

In accordance with section 11A(4) of the Statutory Instruments Act 1946, as inserted by Sch.10 para 3 of the Government of Wales Act 2006, I am notifying you that this Statutory Instrument (SI) will come into force less than 21 days from the date of laying. The Explanatory Memorandum for the Regulations is attached for your information.

Background

In accordance with the Bathing Water Regulations 2013 (“the 2013 Regulations”), which transpose the requirements of the Bathing Water Directive, the bathing season normally runs from 15 May until 30 September in Wales. Under the requirements of the Directive and the domestic regulations, coastal and inland bathing waters are regularly tested before and during the bathing season to ensure their safety and high water quality standards. Natural Resources Wales (“NRW”) is responsible for sampling and monitoring water quality of the designated bathing waters.

The COVID-19 crisis and the associated public health measures had a direct impact on NRW’s bathing water monitoring regime. In responding to the first phase of lockdown restrictions NRW took the decision to suspend all non-essential sampling and laboratory analysis due to resource, health, safety and wellbeing concerns. As a result, NRW has been unable to carry out their usual pre-season sampling of bathing waters and collate the necessary water quality data to support the start of the bathing season on 15 May.

Given the importance of the bathing season in Wales and the statutory obligation to ensure our waters are safe, bathing water monitoring and classification is regarded as a priority. Without a bathing water sampling programme, NRW, local authorities and bathers will not have access to current information on water quality. This could present a risk to public health especially when restrictions are lifted. In addition, results for Bathing Water are used

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Correspondence.Rebecca.Evans@gov.wales
Gohebiaeth.Rebecca.Evans@llyw.cymru

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

for classification, identifying any potential pollution sources as well as providing benefits to tourism economy and blue flag status for beaches in Wales.

Whilst monitoring the COVID-19 situation and considering risks and potential solutions, NRW has maintained a focus on preparations for the bathing water season in line with government advice and social distancing recommendations. NRW is now in a position to commence pre-season sampling in early June, allowing the bathing water season to commence on 22 June, a later date than the statutory deadline.

An amendment to the Bathing Water Regulations 2013 is required to provide the statutory basis for shortening the bathing season 2020 under the COVID-19 emergency. The amending SI will provide the necessary legal basis and clarity for changing the start of the bathing season in Wales, ensuring NRW's compliance with its statutory duties.

The 2013 Regulations are composite and apply to England and Wales, although the amendment will only apply in relation to Wales.

It is necessary for the Bathing Water (Amendment) (Wales) (Coronavirus) Regulations 2020 to come into force by 15 May, which is the specified statutory start date of the bathing season in Wales. Without the amending legislation in place, NRW would be in breach of their statutory obligations. Non-compliance with the Bathing Water Directive requirements also increases the risk of infraction proceeding being initiated by the European Commission.

Not adhering to the 21 day convention is considered necessary and justifiable in light of the unavoidable circumstances linked to the COVID-19 emergency situation. This would not only provide the necessary legal clarity regarding the 2020 bathing season in Wales but would also minimise any the risk of NRW breaching their statutory sampling obligations.

Due to the immediacy of the Regulations, it has not been subject to consultation, however, the Welsh Government has been in regular contact with the UK Government and NRW.

An Explanatory Memorandum has been prepared and this has been laid, together with the Regulations, in Table Office.

A copy of this letter has gone to Mick Antoniw MS, Chair of the Legislation, Justice and Constitution Committee, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely,



Rebecca Evans AS/MS
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd