

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Lleoliad:
Ystafell Bwyllgora 2 – y Senedd

Dyddiad:
Dydd Llun, 23 Medi 2013

Amser:
14:30

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



I gael rhagor o wybodaeth, cysylltwch a:

Gareth Williams
Clerc y Pwyllgor
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Agenda

1 Cyflwyniad, ymddiheuriadau, dirprwyon a datganiadau o fuddiant

1. Offerynnau nad ydynt yn cynnwys materion i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 neu 21.3

2

(Amser a ddynodwyd 2.30 – 2.40pm)

Offerynnau'r Weithdrefn Penderfyniad Negyddol

Gellir dod o hyd i offerynnau a Memoranda Esboniadol yma:

<http://www.senedd.cynulliadcymru.org/mgIssueHistoryHome.aspx?lId=6965>

CLA289 – Rheoliadau Iechyd Planhigion (Ffioedd) (Cymru) 2013

Y Weithdrefn Negyddol; Fe'u gwnaed ar: 7 Gorffennaf 2013; Fe'u gosodwyd ar: 10 Gorffennaf 2013; Yn dod i rym ar: 2 Awst 2013

CLA290 – Gorchymyn Corfforaeth Addysg Bellach Coleg Ystrad Mynach (Diddymu) 2013

Y Weithdrefn Negyddol; Fe'i gwnaed ar: 9 Gorffennaf 2013; Fe'i gosodwyd ar: 11

Gorffennaf 2013; Yn dod i rym ar: 1 Awst 2013.

CLA291 – Gorchymyn Corfforaeth Addysg Bellach Coleg Powys (Diddymu) 2013
Y Weithdrefn Negyddol; Fe'i gwnaed ar: 9 Gorffennaf 2013; Fe'i gosodwyd ar: 11 Gorffennaf 2013; Yn dod i rym ar: 1 Awst 2013.

CLA292 – Gorchymyn Corfforaeth Addysg Uwch Prifysgol Fetropolitan Abertawe (Diddymu) 2013
Y Weithdrefn Negyddol; Fe'i gwnaed ar: 9 Gorffennaf 2013; Fe'i gosodwyd ar: 11 Gorffennaf 2013; Yn dod i rym ar: 1 Awst 2013.

CLA293 – Gorchymyn Dynodi Gorfodi Sifil ar Dramgwyddau Parcio (Sir y Fflint) 2013 (Tudalen 1)
Tynnwyd yr offeryn yn ôl

CLA(4)21-13(p1) – Ymateb y Llywodraeth

CLA294 – Gorchymyn Cyngor Cyllido Addysg Uwch Cymru (Swyddogaethau Atodol) 2013
Y Weithdrefn Negyddol; Fe'i gwnaed ar 9 Gorffennaf 2013; Fe'i gosodwyd ar: 15 Gorffennaf 2013; Yn dod i rym ar: 31 Awst 2013.

CLA295 – Gorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) (Diwygio) (Cymru) 2013
Y Weithdrefn Negyddol; Fe'i gwnaed ar: 15 Gorffennaf 2013; Fe'i gosodwyd ar: 17 Gorffennaf 2013; Yn dod i rym ar: 30 Medi 2013.

CLA296 – Rheoliadau Addysg (Ffioedd Myfyrwyr, Dyfarniadau, a Chyrsiau a Phersonau Cymhwysol) (Cymru) 2013
Y Weithdrefn Negyddol; Fe'u gwnaed ar: 16 Gorffennaf 2013; Fe'u gosodwyd ar: 19 Gorffennaf 2013; Yn dod i rym ar: 1 Medi 2013

CLA297 – Rheoliadau Gweithredu'r Cwricwlwm Lleol (Cymru) 2013
Y Weithdrefn Negyddol; Fe'u gwnaed ar: 16 Gorffennaf 2013; Fe'u gosodwyd ar: 19 Gorffennaf 2013; Yn dod i rym ar: 1 Medi 2013

CLA298 – Rheoliadau Addysg (Cymorth i Fyfyrwyr a Sefydliadau Ewropeaidd) (Cymru) 2013
Y Weithdrefn Negyddol; Fe'u gwnaed ar: 1 Awst 2013; Fe'u gosodwyd ar: 7 Awst 2013; Yn dod i rym ar: 30 Awst 2013

CLA299 – Gorchymyn Gorfodi Sifil ar Dramgwyddau Traffig Ffyrdd (Canllawiau ar Lefelau Taliadau) (Cymru) 2013

Y Weithdrefn Negyddol; Fe'i gwnaed ar: 2 Awst 2013; Fe'i gosodwyd ar: 7 Awst 2013; Yn dod i rym ar: 2 Tachwedd 2013

CLA300 – Rheoliadau Bwyta'n Iach mewn Ysgolion (Gofynion a Safonau Maeth) (Cymru) 2013

Y Weithdrefn Negyddol; Fe'u gwnaed ar: 8 Awst 2013; Fe'u gosodwyd ar: 9 Awst 2013; Yn dod i rym ar: 2 Medi 2013

http://cymru.gov.uk/about/cabinet/cabinetstatements/2013/healthatingschools/?s_kip=1&lang=cy

CLA302 – Gorchymyn Pysgodfa Wystrys y Mwmbwls 2013

Y Weithdrefn Negyddol; Fe'i gwnaed ar: 11 Awst 2013; Fe'i gosodwyd ar: 15 Awst 2013; Yn dod i rym ar: 10 Medi 2013

CLA303 – Gorchymyn Ciniawau Ysgol a Llaeth am Ddim (Credyd Cynhwysol) (Cymru) 2013

Y Weithdrefn Negyddol; Fe'i gwnaed ar: 15 Awst 2013; Fe'i gosodwyd ar: 16 Awst 2013; Yn dod i rym ar: 6 Medi 2013

CLA304 – Gorchymyn Dynodi Gorfodi Sifil ar Dramgwyddau Parcio (Sir y Fflint) (Rhif 2) 2013

Y Weithdrefn Negyddol; Fe'i gwnaed ar: 6 Awst 2013; Fe'i gosodwyd ar: 8 Awst 2013; Yn dod i rym ar: 1 Hydref 2013

CLA305 – Rheoliadau Gwasanaethau Cymorth Mabwysiadu a Gwarcheidwaeth Arbennig (Cymru) (Diwygio) 2013

Y Weithdrefn Negyddol; Fe'u gwnaed ar: 15 Awst 2013; Fe'u gosodwyd ar: 23 Awst 2013; Yn dod i rym ar: 1 Hydref 2013

CLA306 – Rheoliadau Llywodraethu Ysgolion a Gynhelir (Gofynion Hyfforddi ar gyfer Llywodraethwyr) (Cymru) 2013

Y Weithdrefn Negyddol; Fe'u gwnaed ar: 23 Awst 2013; Fe'u gosodwyd ar: 28 Awst 2013; Yn dod i rym ar: 20 Medi 2013

CLA307 – Rheoliadau Llywodraethu Ysgolion a Gynhelir (Clerc i Gorff Llywodraethu) (Cymru) 2013

Y Weithdrefn Negyddol; Fe'u gwnaed ar: 23 Awst 2013; Fe'u gosodwyd ar: 28 Awst 2013; Yn dod i rym ar: 20 Medi 2013

CLA308 – Rheoliadau Labelu Pysgod (Cymru) 2013

Y Weithdrefn Negyddol; Fe'u gwnaed ar: 27 Awst 2013; Fe'u gosodwyd ar: 29 Awst 2013; Yn dod i rym ar: 26 Medi 2013

CLA309 – Cynllun Credydau Treth (Cymeradwyo Darparwyr Gofal Plant) (Cymru) (Diwygio) 2013

Y Weithdrefn Negyddol; Fe'i gwnaed ar: 5 Medi 2013; Fe'i gosodwyd ar: 10 Medi 2013; Yn dod i rym ar: 1 Hydref 2013

CLA310 – Rheoliadau Deddf Gofal Plant 2006 (Asesiadau Awdurdodau Lleol) (Cymru) 2013

Y Weithdrefn Negyddol; Fe'u gwnaed ar: 5 Medi 2013; Fe'u gosodwyd ar: 10 Medi 2013; Yn dod i rym ar: 1 Hydref 2013

3 Offerynnau sy'n cynnwys materion i gyflwyno adroddiad arnynt i'r Cynulliad o dan Reol Sefydlog 21.2 neu 21.3

(Amser a ddynodwyd 2.40 – 3.00pm)

Offerynnau'r Weithdrefn Penderfyniad Negyddol

CLA301 – Rheoliadau Addysg (Hysbysiadau Cosb) (Cymru) 2013 (Tudalennau 2 – 20)

Y Weithdrefn Negyddol; Fe'u gwnaed ar: 7 Awst 2013; Fe'u gosodwyd ar: 12 Awst 2013; Yn dod i rym ar: 2 Medi 2013

CLA(4)21–13(p2) – Adroddiad

CLA(4)21–13(p3) – Rheoliadau

CLA(4)21–13(p4) – Memorandwm Esboniadol

Offerynnau sy'n ddarostyngedig i'r weithdrefn penderfyniad negyddol cyfansawdd

CLA288 – Rheoliadau Dyfroedd Ymdrochi 2013 (Tudalennau 21 – 60)

Y weithdrefn penderfyniad negyddol cyfansawdd; Fe'u gwnaed ar: 3 Gorffennaf 2013; Fe'u gosodwyd ar: 9 Gorffennaf; Yn dod i rym yn unol â rheoliad 1.

CLA(4)21-13(p5) - Adroddiad

CLA(4)21-13(p6) - Rheoliadau

CLA(4)21-13(p7) - Memorandwm Esboniadol

4 Tystiolaeth ynghylch yr Ymchwiliad i rôl Cymru yn y broses o wneud penderfyniadau yn yr UE

(Yr amser a ddynodwyd 3.00pm)

Rhodri Glyn Thomas, AC

5 Papurau i'w nodi (Tudalennau 61 - 67)

Llythyr gan y Prif Weinidog ynghylch Gorchmynion Cychwyn

CLA(4)21-13(p8)

Llythyr gan y Cadeirydd i'r Prif Weinidog ynghylch Gorchmynion Cychwyn

CLA(4)21-13(p9)

Llythyr gan y Gweinidog ynghylch y Memorandwm Cydsyniad Deddfwriaethol - y Bil Ymddygiad Gwrthgymdeithasol, Troseddu a Phlisma: darpariaethau'n ymwneud â chŵn

CLA(4)21-13(p10)

Llythyr gan y Gweinidog ynghylch yr Ymgynghoriad Technegol ar Reoliadau Drafft Cynlluniau Gostyngiadau'r Dreth Gyngor a Gofynion Rhagnodedig (Cymru) 2013

CLA(4)21-13(p11)

<http://wales.gov.uk/consultations/localgovernment/technical-consultation-council-tax-reduction-schemes/?lang=cy>

6 Cynnig o dan Reol Sefydlog 17.42 i benderfynu gwahardd y cyhoedd o'r cyfarfod ar gyfer y canlynol:

ix) lle mae unrhyw fater sy'n ymwneud â busnes mewnol y pwyllgor, neu fusnes mewnol y Cynulliad, i gael ei drafod.

Ymchwiliad i'r Bil Sector Amaethyddol (Cymru) (Tudalennau 68 - 69)

CLA(4)21-13(p12) - Papur

Blaenraglen Waith (Tudalennau 70 - 72)

CLA(4)21-13(p13) - Blaenraglen Waith

Y wybodaeth ddiweddaraf am yr ymweliad â Brwsel ar 14 Hydref 2013
(Tudalennau 73 - 77)
CLA(4)21-13(p14) - Y wybodaeth ddiweddaraf

Eitem 2.5

Gorchymyn Dynodi Gorfodi Sifil ar Dramgwyddau Parcio (Sir y Fflint) 2013

Cafodd yr offeryn statudol a osodwyd ar 12 Gorffennaf ei dynnu'n ôl ar 18 Gorffennaf 2013. Bydd fersiwn newydd o'r offeryn yn cael ei gosod yn y 3 wythnos nesaf.

Eitem 3.1

ADRODDIAD DRAFFT AR OFFERYN STATUDOL

Adroddiad Drafft y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

CLA(4)-21-13:

CLA301 – Rheoliadau Addysg (Hysbysiadau Cosb) (Cymru) 2012

Mae'r Rheoliadau hyn yn nodi'r trefniadau ar gyfer defnyddio hysbysiadau cosb benodedig ar gyfer absenoldeb o'r ysgol yn rheolaidd.

Gweithdrefn: Negyddol

Materion technegol: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Rhinweddau: craffu

O dan Reol Sefydlog 21.3, gwahoddir y Cynulliad i roi sylw arbennig i'r offeryn a ganlyn:-

1. Mae'r Pwyllgor Plant a Phobl Ifanc wedi cynnal ymchwiliad yn ddiweddar i effeithiolrwydd polisi a chanllawiau Llywodraeth Cymru i hyrwyddo presenoldeb ac ymddygiad cadarnhaol yn y ddarpariaeth addysg i blant o oedran ysgol gorfodol. Mae adroddiad y Pwyllgor, a gyhoeddwyd yn ddiweddar, yn cyfeirio at hysbysiadau cosb benodedig mewn cysylltiad ag addysg, ac yn gwneud argymhellion mewn perthynas â'r hysbysiadau hynny. Mae linc i adroddiad y Pwyllgor yn amgaeedig. <http://www.senedd.cynulliadcymru.org/documents/s19651/Report%20-%20August%202013.pdf> (Rheol Sefydlog 21.3(ii) - ei fod o bwysigrwydd gwleidyddol neu gyfreithiol neu ei fod yn codi materion polisi cyhoeddus sy'n debyg o fod o ddiddordeb i'r Cynulliad.)

Cynghorwyr Cyfreithiol Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Awst 2013

Ymateb y Llywodraeth:

Rheoliadau Addysg (Hysbysiadau Cosb) (Cymru) 2013

Diolch i chi am eich adroddiad OS drafft mewn cysylltiad â Rheoliadau Addysg (Hysbysiadau Cosb) (Cymru) 2013.

ADRODDIAD DRAFFT AR OFFERYN STATUDOL

Mae Cadeirydd y Pwyllgor Plant a Phobl Ifanc wedi anfon copi ataf o Adroddiad y Pwyllgor ar yr Ymchwiliad i Bresenoldeb ac Ymddygiad. Byddaf yn ymateb i Gadeirydd y Pwyllgor a byddaf yn fwy na pharod i anfon copi o'r ymateb hwnnw atoch chi.

2013 Rhif 1983 (Cy. 193)

ADDYSG, CYMRU

Rheoliadau Addysg (Hysbysiadau Cosb) (Cymru) 2013

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn rhagnodi'r manylion sy'n angenrheidiol i weithredu'r cynllun hysbysiadau cosb o dan adran 444A o Ddeddf Addysg 1996 ("Deddf 1996"; mewnosodwyd adran 444A gan Ddeddf Ymddygiad Gwrthgymdeithasol 2003).

Diwygiwyd adrannau 444A a 444B gan O.S. 2013/1657 (Cy.155) fel bod yr adrannau hynny hefyd yn gymwys i Gymru.

Mewn perthynas â throseddau triwantaeth o dan adran 444 o Ddeddf 1996, mae'r Rheoliadau hyn yn gymwys i hysbysiadau cosb a gyflwynir ar y dyddiad y deuant i rym neu ar ôl hynny, p'un ai cyn y deuant i rym neu ar ôl hynny y cyflawnwyd y drosedd (rheoliad 1(3)).

Mae rheoliad 3 yn nodi'r materion sydd i'w cynnwys mewn hysbysiad cosb.

Mae rheoliad 4 yn rhagnodi lefel y gosb sydd i'w thalu i'r awdurdod lleol, ac mae rheoliad 6 yn rhagnodi beth sy'n dystiolaeth o dalu'r gosb neu'n dystiolaeth o beidio â thalu'r gosb. Mae rheoliad 5 yn darparu ar gyfer y cyfnod y mae'r gosb i gael ei thalu ynddo, er mwyn iddi ryddhau'r derbynnydd o fod yn agored i gollfarn am y drosedd. Mae rheoliad 6 yn darparu pa awdurdod lleol y mae'r gosb i gael ei thalu iddo.

Mae rheoliad 7 yn rhagnodi'r cyfnod y caniateir i achos gael ei gychwyn ynddo o dan adran 444A(3) o Ddeddf 1996 fel cyfnod o 42 o ddiwrnodau.

Mae rheoliad 8 yn rhoi manylion am yr amgylchiadau hynny pan ganiateir i hysbysiad cosb gael ei dynnu'n ôl.

Mae rheoliadau 10 i 13 yn rhagnodi pwy sy'n cael dyroddi hysbysiadau cosb.

Mae rheoliadau 14 - 18 yn gwneud llunio cod ymddygiad lleol a chynnal ymgynghoriad arno yn ofynnol, er mwyn i hysbysiadau cosb gael eu dyroddi yn unol â'r cod lleol.

Mae rheoliadau 19 - 21 yn rhagnodi bod copi o'r hysbysiad cosb i gael ei ddarparu i'r awdurdod lleol y mae rhaid iddo gadw cofnodion yn unol â'r manylion a roddir. Os oes angen gwybodaeth ar Weinidogion Cymru mewn cysylltiad â hysbysiadau cosb, rhaid i'r awdurdod lleol ddarparu'r wybodaeth honno iddynt hwy.

Mae rheoliadau 22 a 23 yn rhagnodi sut y mae'r hysbysiad cosb i gael ei gyflwyno a sut y mae'r awdurdodau lleol i wario'r symiau y maent yn eu cael.

2013 Rhif 1983 (Cy. 193)

ADDYSG, CYMRU

Rheoliadau Addysg (Hysbysiadau Cosb) (Cymru) 2013

Gwnaed 7 Awst 2013

*Gosodwyd gerbron Cymulliad Cenedlaethol
Cymru* 12 Awst 2013

Yn dod i rym 2 Medi 2013

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 444A(3) a (6), 444B a 569 o Ddeddf Addysg 1996(1) ac a freiniwyd bellach ynddynt hwy, yn gwneud y Rheoliadau a ganlyn:

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Addysg (Hysbysiadau Cosb) (Cymru) 2013 a deuant i rym ar 2 Medi 2013.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

(3) Mewn perthynas â throseddau o dan adran 444 o Ddeddf 1996, mae'r Rheoliadau hyn yn gymwys i hysbysiadau cosb a ddyroddir ar y dyddiad y daw'r Rheoliadau hyn i rym neu ar ôl hynny, p'un ai cyn y dyddiad hwnnw, ar y dyddiad hwnnw neu ar ôl y dyddiad hwnnw y cyflawnwyd y drosedd honedig.

Dehongli

2.—(1) Yn y Rheoliadau hyn—

(1) 1996 p.56; mewnosodwyd adrannau 444A a 444B gan adran 23(1) o Ddeddf Ymddygiad Gwrthgymdeithasol 2003 (p. 38); mae adran 444A wedi ei diwygio gan adran 117 o Ddeddf Addysg 2005 (p.18) a pharagraff 3 o Atodlen 18 iddi, ac adran 110 o Ddeddf Addysg ac Arolygiadau 2006 (p.40). Rhoddwyd cyfeiriadau at "local authority" yn lle "local education authority" gan O.S. 2010/1158. Mae cymhwysiad adrannau 444A a 444B yn gymwys i Gymru yn rhinwedd O.S. 2013/1657 (Cy.155).

ystyr “cod ymddygiad” (“*code of conduct*”) yw cod ymddygiad yr awdurdod lleol sydd mewn grym am y tro yn unol â rheoliadau 14 i 16;

ystyr “darpariaeth addysgol amgen” (“*alternative educational provision*”) yw un o’r canlynol—

- (a) addysg a ddarperir gan awdurdod lleol ar gyfer plentyn ac eithrio mewn ysgol neu yng nghartref y plentyn drwy drefniadau a wnaed o dan adran 19 o Ddeddf 1996(1);
- (b) addysg mewn lleoliad y tu allan i fangre’r ysgol lle y mae’r plentyn yn ddisgybl cofrestredig ac y mae’n ofynnol gan yr awdurdod priodol (o fewn ystyr adran 444ZA(2) o Ddeddf 1996) i’r plentyn ei mynychu at ddibenion cael cyfarwyddyd neu hyfforddiant;

ystyr “Deddf 1996” (“*the 1996 Act*”) yw Deddf Addysg 1996;

ystyr “derbynydd” (“*recipient*”) yw’r person y rhoddir yr hysbysiad cosb iddo yn unol ag adran 444A(1) o Ddeddf 1996; ac

ystyr “hysbysiad cosb” (“*penalty notice*”) yw hysbysiad cosb a ddyroddir yn unol ag adran 444A(1) o Ddeddf 1996.

(2) Yn y Rheoliadau hyn, mae cyfeiriad at ddirprwy bennaeth neu bennaeth cynorthwyol yn cynnwys cyfeiriad at berson sy’n gweithredu fel dirprwy bennaeth neu bennaeth cynorthwyol, yn ôl y digwydd(3).

Ffurf a chynnwys yr hysbysïadau cosb

3. Rhaid i hysbysiad cosb roi’r manylion hynny am yr amgylchiadau yr honnir iddynt ffurfio’r drosedd y mae’r hysbysiad yn ymwneud â hi, sy’n angenrheidiol i roi gwybodaeth resymol o’r drosedd, a rhaid iddo gynnwys—

- (a) enw a chyfeiriad y derbynydd;
- (b) enw a chyfeiriad y plentyn sy’n—
 - (i) methu â mynychu’r ysgol yn rheolaidd;
 - (ii) methu â mynychu’r ddarpariaeth addysgol amgen yn rheolaidd, ac, fel y bo’n gymwys—
 - (aa) enw’r ysgol lle y mae’r plentyn yn ddisgybl cofrestredig, os yw’n gymwys; a

(1) Diwygiwyd adran 19 gan adrannau 47 a 57 o Ddeddf Addysg 1997 (p.44), ac Atodlen 8 iddi.
(2) Mewnosodwyd adran 444ZA gan adran 116 o Ddeddf Addysg 2005.
(3) Yn ôl adran 579(1) o Ddeddf Addysg 1996 (p.56), mae “head teacher” yn cynnwys pennaeth dros dro.

- (bb) y lleoliad lle y darperir y ddarpariaeth addysgol amgen ar gyfer y plentyn neu y mae'n ofynnol i'r plentyn ei fynychu,

yn ôl y digwydd;

- (c) enw a manylion swyddogol y swyddog awdurdodedig sy'n dyroddi'r hysbysiad;
- (d) mewn achos o drosedd o dan adran 444 o Ddeddf 1996, y cyfnod y cyflawnwyd y drosedd ynddo a dyddiad dyroddi'r hysbysiad;
- (e) y swm sydd i'w dalu fel cosb, os telir ef o fewn 28 o ddiwrnodau yn unol â rheoliad 4, a'r swm, yn unol â'r rheoliad hwnnw os na thelir y swm o fewn y cyfnod hwnnw ond os telir ef o fewn 42 o ddiwrnodau;
- (f) enw a chyfeiriad yr awdurdod lleol y mae'r gosb i'w thalu iddo yn unol â rheoliad 6 ac y caniateir i unrhyw ohebiaeth mewn perthynas â'r hysbysiad cosb gael ei hanfon iddo;
- (g) y dull neu'r dulliau y caniateir i'r gosb gael ei thalu drwyddynt;
- (h) y cyfnod ar gyfer talu'r gosb, yn unol â rheoliad 5;
- (i) datganiad i'r perwyl y bydd talu o fewn y cyfnod hwnnw yn rhyddhau'r derbynydd o fod yn agored i gollfarn am y drosedd;
- (j) y canlyniadau os na thelir y gosb cyn i'r cyfnod ar gyfer ei thalu ddod i ben; a
- (k) ar ba seiliau y caniateir tynnu'r hysbysiad yn ôl.

Y gosb

Swm y gosb

4. Dyma swm y gosb sydd i'w dalu—

- (a) £60, pan fo'r swm yn cael ei dalu cyn pen 28 o ddiwrnodau ar ôl cael yr hysbysiad cosb; neu
- (b) £120, pan na fo paragraff (a) yn gymwys ond pan fo'r swm yn cael ei dalu cyn pen 42 o ddiwrnodau ar ôl cael yr hysbysiad cosb.

Y cyfnod ar gyfer talu'r gosb

5. Cyn pen 42 o ddiwrnodau ar ôl cael yr hysbysiad cosb yw'r amser erbyn pryd y mae'r gosb i'w thalu(1).

(1) Os telir y gosb o fewn y cyfnod hwn, ni ellir collfarnu'r derbynydd o'r drosedd o dan adran 444A(4) o Ddeddf Addysg 1996 (p.56) y mae'r hysbysiad yn ymwneud â hi.

Talu'r gosb

6.—(1) Mae'r gosb yn daladwy i'r canlynol—

- (a) yr awdurdod lleol y mae plentyn y derbynnydd yn ddisgybl cofrestredig mewn ysgol a leolir yn ei ardal;
- (b) yr awdurdod lleol y mae'r plentyn yn preswyllo yn ei ardal, pan na fo'r plentyn, ar yr adeg y rhoddir yr hysbysiad cosb, yn ddisgybl cofrestredig mewn unrhyw ysgol, p'un a yw hynny oherwydd gwaharddiad parhaol neu fel arall.

(2) Mae tystysgrif yr honnir ei bod wedi ei llofnodi gan swyddog priodol awdurdod lleol i'r perwyl bod derbynnydd hysbysiad cosb wedi talu neu nad yw wedi talu'r swm sy'n ddyledus ganddo ar y dyddiad a nodir ar y dystysgrif neu cyn y dyddiad hwnnw, yn dderbyniol fel tystiolaeth mewn achosion cyfreithiol ac yn dystiolaeth o'r materion sydd wedi eu nodi arni.

Effaith yr hysbysiad cosb

Y cyfnod lle na chaniateir cychwyn achosion

7.42 o ddiwrnodau yw'r cyfnod a ragnodir at ddibenion adran 444A(3) o Ddeddf 1996 gan ddechrau ar y dyddiad y mae'r derbynnydd yn cael yr hysbysiad cosb.

Tynnu'n ôl

Tynnu hysbysiad cosb yn ôl

8.—(1) Caiff yr awdurdod lleol a enwir yn yr hysbysiad fel yr awdurdod y mae'r taliad i gael ei wneud iddo, dynnu'r hysbysiad cosb yn ôl mewn unrhyw achos pan fo—

- (a) yr awdurdod hwnnw yn penderfynu—
 - (i) na ddylai fod wedi ei ddyroddi; neu
 - (ii) na ddylai fod wedi ei ddyroddi i'r person a enwyd fel derbynnydd; neu
- (b) yn ymddangos i'r awdurdod bod yr hysbysiad yn cynnwys gwallau perthnasol.

(2) Caniateir i hysbysiad cosb gael ei dynnu'n ôl yn unol â pharagraff (1) p'un a yw'r cyfnod ar gyfer talu, y cyfeirir ato yn yr hysbysiad yn unol â rheoliad 3(h), wedi dod i ben ai peidio, a ph'un a yw'r gosb wedi ei thalu ai peidio.

(3) Pan fo hysbysiad cosb wedi ei dynnu'n ôl yn unol â pharagraff (1)—

- (a) rhaid i hysbysiad o'r ffaith ei fod wedi ei dynnu'n ôl gael ei roi i'r derbynnydd; a
- (b) rhaid i unrhyw swm a dalwyd fel cosb yn unol â'r hysbysiad hwnnw gael ei dalu'n ôl i'r person a'i talodd.

(4) Ac eithrio fel a ddarperir ym mharagraff (5), ni chaniateir cychwyn achos, ac ni chaniateir parhau ag achos yn erbyn y derbynydd am y drosedd y mae'r hysbysiad cosb a gafodd ei ddyroddi ac a gafodd ei dynnu'n ôl yn ymwneud â hi, neu, pan fo'r hysbysiad cosb yn ymwneud â throsedd o dan is-adran (1) o adran 444 o Ddeddf 1996, am drosedd o dan is-adran (1A) sy'n codi o'r un amgylchiadau.

(5) Ond pan fo hysbysiad cosb wedi ei ddyroddi, a'i dynnu'n ôl yn unol â pharagraff (1)(b), caniateir i achos barhau neu gychwyn—

- (a) am y drosedd yr oedd yr hysbysiad cosb a ddyroddwyd yn ymwneud â hi; neu
- (b) pan fo'r hysbysiad cosb yn ymwneud â throsedd o dan is-adran (1) o adran 444 o Ddeddf 1996, am drosedd o dan is-adran (1A) o'r adran honno sy'n codi o'r un amgylchiadau â'r drosedd a grybwyllwyd gyntaf,

os bodlonir y ddwy amod a ganlyn—

- (i) dyroddwyd hysbysiad cosb pellach mewn cysylltiad â'r drosedd, neu, yn achos is-baragraff (b), y drosedd a grybwyllwyd gyntaf, ar yr un adeg â thynnu'r hysbysiad cosb cyntaf yn ôl; a
- (ii) ni thalwyd y gosb yn unol â'r hysbysiad cosb pellach hwnnw yn unol â gofynion y Rheoliadau hyn.

Peidio â thalu'r gosb

9. Rhaid i'r awdurdod dynnu'r hysbysiad cosb yn ôl pan na fo—

- (a) y gosb wedi ei thalu'n llawn cyn i'r cyfnod i'w thalu ddod i ben; a
- (b) yr awdurdod lleol a enwir yn yr hysbysiad yn unol â rheoliad 3(f) wedi cychwyn achos yn erbyn y derbynydd am y drosedd y mae'r hysbysiad yn ymwneud â hi, nac yn ystyried achos o'r fath.

Dyroddi hysbysiadau cosb

Awdurdod i ddyroddi hysbysiadau cosb

10.—(1) Caiff pennaeth awdurdodi dirprwy bennaeth neu bennaeth cynorthwyol i ddyroddi hysbysiadau cosb.

(2) Ond ni chaiff pennaeth awdurdodi unrhyw aelod arall o staff i ddyroddi hysbysiadau cosb.

Cyfyngiad ar ddyroddi hysbysiadau cosb gan ysgolion

11. Dim ond mewn cysylltiad â phlentyn sy'n ddisgybl cofrestredig yn yr ysgol lle y mae'n gweithio y caiff pennaeth neu ddirprwy bennaeth neu bennaeth cynorthwyol, yn ôl y digwydd, ddyroddi hysbysiad cosb.

Cyfyngiad ar ddyroddi hysbysiadau cosb gan awdurdodau lleol

12.—(1) Yn ddarostyngedig i baragraff (2), ni chaiff swyddog awdurdod lleol ddyroddi hysbysiad cosb mewn cysylltiad â phlentyn, ac eithrio—

- (a) plentyn sy'n ddisgybl cofrestredig mewn ysgol yn ardal yr awdurdod hwnnw;
- (b) plentyn y mae'r awdurdod hwnnw wedi gwneud trefniadau darpariaeth addysgol amgen ar ei gyfer (p'un ai yn ardal yr awdurdod hwnnw ai peidio); neu
- (c) plentyn, ar yr adeg y rhoddir yr hysbysiad, nad yw'n ddisgybl cofrestredig mewn unrhyw ysgol (p'un a yw hynny oherwydd gwaharddiad parhaol neu fel arall) ond sy'n preswyllo yn ardal yr awdurdod hwnnw.

(2) Pan fo awdurdod lleol wedi gwneud cytundeb ag awdurdod lleol arall i swyddog yr awdurdod arall hwnnw ddyroddi hysbysiadau cosb mewn cysylltiad â phlentyn y mae paragraff (1)(a) neu (b) yn gymwys iddo, caiff swyddog o'r awdurdod arall hwnnw ddyroddi hysbysiad cosb mewn cysylltiad â'r plentyn hwnnw.

Nifer o hysbysiadau cosb mewn cysylltiad â'r un drosedd

13. Pan fo mwy nag un person yn agored i gollfarn am drosedd, caniateir dyroddi hysbysiad cosb ar wahân i bob person.

Codau ymddygiad

Y gofyniad i lunio cod ymddygiad

14. Rhaid i bob awdurdod lleol lunio cod ymddygiad sy'n nodi mesurau i sicrhau cysondeb wrth ddyroddi hysbysiadau cosb, gan gynnwys—

- (a) dull i osgoi dyroddi hysbysiadau cosb dyblyg;
- (b) mesurau i sicrhau na ddyroddir hysbysiad cosb mewn cysylltiad â throedd pan fo achos am y drosedd honno o dan adran 444 o Ddeddf 1996 (neu drosedd o dan is-adran (1A) o'r adran honno sy'n codi o'r un amgylchiadau) yn ôl y digwydd o dan

- ystyriaeth gan yr awdurdod lleol neu wedi ei gychwyn ganddo;
- (c) yr adegau pan fydd yn briodol ddyroddi hysbysiad cosb ar gyfer trosedd;
 - (d) y nifer uchaf o hysbysiadau cosb y caniateir eu dyroddi i un rhiant mewn unrhyw gyfnod o ddeuddeng mis; a
 - (e) trefniadau ar gyfer cydgysylltu rhwng yr awdurdod lleol, yr awdurdodau lleol cyfagos lle y bo'n briodol, yr heddlu a swyddogion awdurdodedig(1).

Ymgynghori ar y cod ymddygiad

15.—(1) Wrth lunio cod ymddygiad rhaid i'r awdurdod lleol ymgynghori â chyrrff llywodraethu, penaethiaid a phrif swyddog yr heddlu ar gyfer yr ardal heddlu sy'n cynnwys y cyfan o ardal yr awdurdod lleol, neu ran ohoni.

(2) Yn y rheoliad hwn—

ystyr “ardal heddlu” yw ardal heddlu a ddarperir ar ei chyfer gan adran 1 o Ddeddf yr Heddlu 1996(2); mae i “prif swyddog yr heddlu” yr ystyr a roddir i “chief officer of police” gan adran 101(1) o'r Ddeddf honno.

Cydymffurfio â'r cod ymddygiad

16. Rhaid i unrhyw berson sy'n dyroddi hysbysiad cosb wneud hynny yn unol â'r cod ymddygiad.

Gwybodaeth

Copi o hysbysiad cosb i'w roi i awdurdod lleol

17. Rhaid i berson sy'n dyroddi hysbysiad cosb (heb oedi) ddarparu copi i'r awdurdod lleol a enwir yn yr hysbysiad fel yr awdurdod y mae'r taliad i gael ei wneud iddo yn unol â rheoliad 3(f).

Cofnodion

18. Rhaid i awdurdod lleol gadw cofnodion am hysbysiadau cosb, a rhaid iddynt gynnwys y canlynol—

- (a) copi o bob hysbysiad a ddyroddir;
- (b) cofnod o'r holl daliadau a wnaed, a'r dyddiadau y'u gwnaed;

(1) Mae “authorised officer” wedi ei ddiffinio yn adran 444B(4) o Ddeddf Addysg 1996 (p.56) mewn perthynas â hysbysiadau cosb o dan adran 444A o'r Ddeddf honno.

(2) 1996 p.16, y mae diwygiadau iddi nad ydynt yn berthnasol i'r Rheoliadau hyn.

- (c) p'un a dynnwyd yr hysbysiad yn ôl ai peidio, ac ar ba sail; a
- (d) p'un a erlynwyd y derbynnydd am y drosedd y dyroddwyd yr hysbysiad amdani ai peidio (neu, pan fo'r hysbysiad yn ymwneud â throsedd o dan is-adran (1) o adran 444 o Ddeddf 1996, am drosedd o dan is-adran (1A) sy'n codi o'r un amgylchiadau).

Gwybodaeth i Weinidogion Cymru

19. Rhaid i awdurdod lleol roi i Weinidogion Cymru unrhyw wybodaeth y mae ei hangen arnynt mewn cysylltiad â hysbysiadau cosb.

Darpariaethau terfynol

Cyflwyno hysbysiadau

20.—(1) Pan fo hysbysiad cosb wedi ei gyflwyno drwy'r post dosbarth cyntaf(1) bennir bod y cyflwyno wedi cael effaith, oni phofir i'r gwrthwyneb, ar yr ail ddiwrnod gwaith ar ôl i'r hysbysiad gael ei bostio.

(2) Yn y rheoliad hwn ystyr "diwrnod gwaith" yw diwrnod ac eithrio dydd Sadwrn, dydd Sul, dydd Nadolig, dydd Gwener y Groglith neu ddiwrnod sy'n wyl banc o fewn ystyr Deddf Bancio a Thrafodion Ariannol 1971(2).

Symiau y mae awdurdodau lleol yn eu cael

21.—(1) Swyddogaethau awdurdod lleol a bennir at ddibenion adran 444A(6)(a) o Ddeddf 1996 yw dyroddi a gorfodi hysbysiadau cosb, ac erlyn y derbynwyr hynny nad ydynt yn talu.

(2) I'r graddau nad yw'r symiau a gaiff awdurdod lleol yn cael eu defnyddio at ddibenion y swyddogaethau a bennir ym mharagraff (1), rhaid iddynt gael eu talu i Weinidogion Cymru.

Carwyn Jones

Prif Weinidog Cymru

7 Awst 2013

(1) Mae adran 572 o Ddeddf Addysg 1996 yn gwneud darpariaeth ar gyfer cyflwyno hysbysiadau.
(2) 1971 p.80.

Explanatory Memorandum to the Education (Penalty Notice) (Wales) Regulations 2013

This Explanatory Memorandum has been prepared by the Department for Education and Skills and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Education (Penalty Notice) (Wales) Regulations 2013.

Carwyn Jones
First Minister of Wales

7 August 2013

Description

1. These Regulations set out the arrangements for using education-related fixed penalty notices for regular¹ non-attendance at school.

Matters of special interest to the Constitutional and Legislative Affairs Committee

2. None.

Legislative background

3. Section 7 of the Education Act 1996 places a duty on parents to ensure that their child receives full-time, efficient education suitable to the child's age, ability and aptitude and any special needs they may have.
4. Section 444A and 444B of the Education Act 1996 allows for penalty notices in respect of failure to secure regular attendance at school of a registered pupil and for the Welsh Ministers to make regulations regarding their operation.
5. Sections 23(9) and (10) of the Anti-social Behaviour Act 2003 ("the 2003 Act") allows the Welsh Ministers to extend to Wales the application of sections 444A and 444B of the Education Act 1996 by making regulations that remove the words 'in England' from those sections. The practical effect of this is that those sections will apply to both England and Wales. The Anti-Social Behaviour Act 2003 (Amendment to the Education Act 1996) (Wales) Order 2013 removed the words "in England" in each place that they occurred in sections 444A and 444B of the Education Act 1996.
6. The functions of the Secretary of State in the Education Act 1996 were transferred to the National Assembly for Wales by way of the National Assembly for Wales (Transfer of Functions) Order 1999. Those functions and the functions in the Anti-social Behaviour Act 2003 were transferred to the Welsh Ministers in accordance with paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

¹ Regular will be defined by the Local Authority as attendance falling below a set percentage agreed within that local authority

7. The Regulations will be laid under the negative resolution procedure.

Purpose & intended effect of the legislation

8. There is clear statistical evidence to demonstrate the link between poor attendance and low attainment and the level of unauthorised and persistent² absences in Wales is a concern. Evidence shows that children with poor attendance are unlikely to succeed academically and they are more likely to be not in education, employment or training (NEET) when they leave compulsory age schooling.
9. We need to ensure that local authorities have appropriate tools and powers to bring about improvements in attendance.
10. Penalty notices are one option amongst a number of different interventions available to promote better school attendance. Penalty notices will support local authorities and schools, to ensure parents fulfil their responsibilities by ensuring that their children attend school regularly.
11. Education-related penalty notices enable parents to discharge potential liability for conviction for these offences by paying a penalty of £60 if paid within 28 days rising to £120 if paid after 28 days but within 42 days. If the penalty is unpaid or paid in part at the end of the 42 day period, the local authority must withdraw the notice if it does not prosecute for the offence to which the notice relates.

Consultation

12. The Welsh Government consulted with key sectors including parents, pupils, schools, local authorities, regional education consortia, and education welfare services between 30 November 2012 and 22 February 2013 (12 weeks).
13. In the main there was general agreement with the proposals. There were two main issues arising from the responses which have been addressed within the guidance that will be issued to local authorities:

² Persistent absentees are pupils who were absent for at least 20 per cent or more of possible sessions as defined for statistical purposes by Welsh Government

- i. the implementation of a local code of conduct by local authorities
 - ii. the power for head teachers to issue penalty notices
14. Responses to the consultation called for either a national code of conduct or a more detailed 'model' code of conduct prepared by the Welsh Government. A local code of conduct is proposed to allow local authorities and schools to take into consideration local and individual circumstances. This will be developed by local authorities.
15. Welsh Government guidance on the penalty notice system, to be published alongside the Regulations, will make clear that local authorities, following consultation with their schools and police, may limit the power of issuing penalties to the authority only and not head teachers if they so wish as part of their code of conduct.
16. The full summary of responses to the consultation can be found at:
<http://wales.gov.uk/consultations/education/nonattendancepenalty/?lang=en>

Regulatory Impact Assessment (RIA)

17. The Regulations are not expected to impact on businesses, charities or the voluntary sector and as such, a full RIA has not been completed. The Regulations have no impact on the statutory duties (sections 77 -79 GOWA 06) or statutory partners (sections 72-75 GOWA 06).
18. The impact to local government is in relation to local authorities, schools and the police. The Welsh Government envisages local authorities making use of these Regulations.

Options

Option 1: Do nothing

19. In the event of the instrument not coming into force, then we would continue to regulate attendance through the current parenting contracts, parenting orders, school attendance orders or education supervision order.

Costs

20. This is the baseline option and as such there are no **additional** costs associated with this option.
21. With no change in the enforcement options available to local authorities, attendance levels would not be expected to increase any further. Similarly there would be no impact on improving attainment rates.
22. The number of lengthy and costly prosecutions currently undertaken is not expected to decrease.

Option 2: Make the legislation

23. By introducing the Regulations additional support would be provided to improve attendance and as such levels of attainment across Wales. This would provide a further option to address persistent low level non attendance at school.

Costs

24. There will be an initial financial outlay for the Welsh Government for preparing guidance on the Regulations for local authorities. The estimated staff cost for developing this guidance is approximately £3000.
25. There will be a transitional cost for each local authority for developing a local area code of conduct and consulting with/informing families. The estimated one-off cost for each local authority is £6000. It is expected that this cost would be offset by savings from the reduction in the number of prosecutions.
26. It is intended that implementation of the penalty notices will be cost neutral. Local authorities will retain any revenue from the penalty notice to cover enforcement costs. Any surplus will be paid to the Welsh Consolidated Fund. There are already processes in place to monitor pupil attendance and so there are no additional monitoring costs under this option.
27. There will be a cost to the individual families served with a penalty notice. As noted above, the cost will be £60 if paid within a 28 day period, rising to £120 if paid between 28 and 42 days.

Benefits

28. The main benefit of these Regulations is to increase and improve attendance rates which in turn, will drive up attainment levels of pupils. In addition, it will allow local authorities to address persistent low level non attendance quickly and effectively without needing to resort to protracted prosecutions, an improvement for local authorities.
29. Some of the key findings of research undertaken in the UK³ included the following:
- Penalty notice warning letters were found to contribute to positive impacts on pupils' attendance. In particular, they were perceived to contribute to improvements in attendance for pupils who have less entrenched attendance issues and for whom there are no specific issues or reasons underpinning their low attendance.
 - The threat of the penalty notice was often considered to be sufficient to improve attendance without one actually being issued.
 - Penalty notices were found to be an effective approach to dealing with punctuality issues and for cases where there were no complex issues or there did not appear to be underlying reasons for poor attendance.
 - Penalty notices were less effective in circumstances where there were underlying family issues or where attendance issues were more entrenched.

³ <https://www.gov.uk/government/publications/investigating-the-use-of-parental-responsibility-measures-for-school-attendance-and-behaviour-final-report>

Competition Assessment

30. The proposed Regulations do not affect business, charities and /or the voluntary sector.

Post implementation review

31. Local authorities will monitor and review statistics and processes on an annual basis. Welsh Government will be provided with data upon request.
32. The legislation will be reviewed to establish the actual costs and benefits and whether it is achieving its desired effects after two years. This will allow for the new system to bed in and comparable data to be available

Eitem 3.2

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

CLA(4)-21-13

Adroddiad Drafft y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

CLA288 – Rheoliadau Dyfroedd Ymdrochi 2013

Gweithdrefn: Negyddol

Mae'r rheoliadau yn dirymu ac yn disodli Rheoliadau Dyfroedd Ymdrochi 2008, ac yn gweithredu, yng Nghymru a Lloegr yn unig, Gyfarwyddeb 2006/7/EC o Senedd Ewrop ac o'r Cyngor ynghylch rheoli ansawdd dyfroedd ymdrochi a diddymu Cyfarwyddeb 76/160/EEC ("y Gyfarwyddeb Dyfroedd Ymdrochi"). Maent hefyd yn gweithredu Penderfyniad Gweithredu'r Comisiwn 2011/321/EU i sefydlu, yn unol â Chyfarwyddeb 2006/7, symbol ar gyfer gwybodaeth i'r cyhoedd ynghylch dosbarthiad dyfroedd ymdrochi ac unrhyw waharddiadau ymdrochi neu gyngor yn erbyn ymdrochi.

Materion technegol: craffu

Nodwyd y pwynt a ganlyn i gyflwyno adroddiad arno o dan Reol Sefydlog 21.2(ix) mewn perthynas â'r offeryn hwn:

Nad yw wedi'i wneud neu i'w wneud yn Gymraeg ac yn Saesneg.

Rhinweddau: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt mewn perthynas â'r offeryn hwn.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Medi 2013

Ymateb y Llywodraeth:

Rheoliadau Dyfroedd Ymdrochi 2013

Diben y Rheoliadau hyn oedd, ymhlith pethau eraill, ymateb i her gan y Comisiwn Ewropeaidd ar drosiad cyffredin Cyfarwyddeb 2006/7/EC yng Nghymru a Lloegr gan y rheoliadau trosi rhagflaenol (cyfansawdd).

Ystyrir ei bod yn briodol parhau â throsiad cyffredin yng Nghymru a Lloegr, er mwyn sicrhau yr ymdrinnir â phryderon y Comisiwn yn llawn.

Mae'r Rheoliadau cyfansawdd hyn yn gymwys i Gymru a Lloegr ac yn ddarostyngedig i gymeradwyaeth gan Gynulliad Cenedlaethol Cymru a chan Senedd y Deyrnas Unedig. Yn unol â hynny, nid ystyrir ei bod yn rhesymol ymarferol i'r Offeryn hwn gael ei osod ar ffurf ddrafft, na'i wneud, yn ddwyieithog.

STATUTORY INSTRUMENTS

2013 No. 1675

WATER RESOURCES

The Bathing Water Regulations 2013

Made - - - - *3rd July 2013*

Laid before Parliament *9th July 2013*

Laid before the National Assembly for Wales *9th July 2013*

Coming into force in accordance with regulation 1

The Secretary of State is designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to the environment, and the Welsh Ministers are designated^(c) for the purposes of that section, in relation to measures relating to water resources.

The Secretary of State in relation to England and Scotland^(d) and the Welsh Ministers in relation to Wales, make the following Regulations in exercise of the powers conferred by that section of that Act.

PART 1

GENERAL PROVISIONS

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Bathing Water Regulations 2013.

(2) The following provisions come into force on 31st July 2013—

- (a) this regulation and regulations 2 to 9;
- (b) in regulation 14—
 - (i) paragraph (1) in so far as it relates to paragraphs (2) to (5);
 - (ii) paragraphs (2) to (5);
- (c) regulations 15 to 18;
- (d) in regulation 19—
 - (i) paragraph (1);

(a) S.I. 2008/301.

(b) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

(c) See S.I. 2003/2901 for the designation conferred on the National Assembly for Wales. By virtue of sections 59 and 162 of, and paragraph 28 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), that designation is now conferred on the Welsh Ministers.

(d) The power of the Secretary of State to make regulations in relation to matters as regards Scotland is preserved by section 57(1) of the Scotland Act 1988 (c. 46).

- (ii) paragraphs 3(b) and (c);
 - (iii) paragraph (4)(b);
 - (e) regulation 20.
- (3) All remaining provisions come into force on 24th March 2015.
- (4) Subject to paragraph (5), these Regulations extend to England and Wales only.
- (5) Any amendment or revocation made by these Regulations has the same extent as the enactment being amended or revoked.

Interpretation

2.—(1) In these Regulations—

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

“the appropriate agency” means—

- (a) in relation to surface waters in England, the Environment Agency;
- (b) in relation to surface waters in Wales, the Natural Resources Body for Wales;

“appropriate agency management measures” means any measures taken by the relevant appropriate agency in relation to a bathing water—

- (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) to reduce the risk of pollution (being measures within the appropriate agency’s relevant functions referred to in regulation 5); or
- (c) to issue advice against bathing;
- (d) under regulations 7 to 11;

“the appropriate Minister” means—

- (a) in relation to surface waters in England, the Secretary of State;
- (b) in relation to surface waters in Wales, the Welsh Ministers;

“bathing season” means the period specified in regulation 4;

“a bathing water” means an area of surface water identified under regulation 3 and listed at Schedule 2, at which permanent advice against bathing is not currently in place under regulation 13;

“the Bathing Water Directive” means Directive 2006/7/EC of the European Parliament and of the Council concerning the management of bathing water quality and repealing Directive 76/160/EEC^(a);

“bathing water profile” means a profile established under regulation 7;

“cyanobacterial proliferation” means an accumulation of cyanobacteria including in the form of a bloom, mat or scum;

“the Decision” means the Commission Implementing Decision 2011/321/EU 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 prohibition or advice against bathing^(b);

“England” includes the territorial sea adjacent to England and not forming any part of Wales;

“local authority” means—

(a) OJ No L 64, 4.3.2006, p.37, as amended by Regulation (EC) No 596/2009 (OJ No L 188, 18.7.2009, p.14).
(b) OJ No L 143, 31.5.2011, p.38.

- (a) in England, the council of any district, parish or town, the unitary authority of a place in which there are no districts, the council of a London borough, the Common Council of the City of London or the Council of the Isles of Scilly; or
- (b) in Wales, the council of a county or county borough;

“local authority management measures” means measures taken by a local authority in relation to a bathing water which it controls—

- (a) to give information to the public; or
- (b) to prevent, by means of public information (including issuing an advice against bathing), bathers’ exposure to pollution;

“management measures” means appropriate agency management measures or local authority management measures;

“permanent advice against bathing” means advice issued, in relation to at least one whole bathing season, under regulation 13;

“pollution” means contamination which affects bathing water quality and presents a risk to bathers’ health from any of the following—

- (a) intestinal enterococci or *Escherichia coli*;
- (b) cyanobacterial proliferation;
- (c) a proliferation of macro-algae or marine phytoplankton;
- (d) waste, including tarry residues, glass, plastic or rubber;

“relevant land” is land which is—

- (a) normally used to access a bathing water from the landward side, and
- (b) immediately adjacent to that bathing water or, where the bathing water is tidal, immediately above the high water mark;

“relevant procedures for short-term pollution” means—

- (a) in relation to an appropriate agency, any measures, including appropriate agency management measures, to prevent reduce or eliminate the causes of pollution and may include surveillance, early warning systems or monitoring with a view to preventing bathers’ exposure to pollution by means of a warning, or, where necessary, an advice against bathing; and
- (b) in relation to a local authority, any measures, including local authority management measures, to notify the public that the bathing water is affected by short-term pollution;

“set of bathing water quality data” means data obtained from results of samples taken under Part 1 of Schedule 4;

“short-term pollution” means contamination by intestinal enterococci or *Escherichia coli* where the appropriate agency—

- (a) has identified the 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;

“Wales” has the meaning given by section 158 of the Government of Wales Act 2006(a);

(2) In these Regulations, “coastal water”, “groundwater”, “inland water”, “lake”, “river”, “surface water” and “transitional waters” have the meaning as in Directive 2006/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy, and are listed in Schedule 1 to these Regulations.

(3) For the purposes of these Regulations, a local authority controls a bathing water if the relevant land relating to that bathing water is located within its area.

(a) 2006 c.32.

Identification of bathing waters

3.—(1) Part 1 of Schedule 2 lists the surface waters that have been identified in England, other than excluded pools and waters, at which the Secretary of State 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.

(2) Part 2 of Schedule 2 lists the surface waters that have been identified in Wales, other than excluded pools and waters, at which the Welsh Ministers expect 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.

(3) For the purposes of paragraphs (1) and (2), excluded pools and waters are—

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

(4) The Secretary of State must publish the following information annually, and in accordance with paragraph (6)—

- (a) a complete list of all bathing waters in England stating their classifications;
- (b) details of all surface waters in England at which permanent advice against bathing is currently in place under regulation 13, including, in relation to each such surface water, the reasons for that advice.

(5) The Welsh Ministers must publish the following information annually, and in accordance with paragraph (6)—

- (a) a complete list of all bathing waters in Wales stating their classifications;
- (b) details of all surface waters in Wales at which permanent advice against bathing is currently in place under regulation 13, including, in relation to each such surface water, the reasons for that advice.

(6) The information to be published under paragraphs (4) and (5) must be actively disseminated before the start of the bathing season using appropriate media and technologies including the internet, and in such languages as the appropriate Minister considers appropriate.

(7) For the purposes of giving effect to the Bathing Water Directive, section 104(1) of the Water Resources Act 1991^(a) (meaning of “controlled waters”) has effect as if “inland freshwaters” included any lake or pond (other than a relevant lake or pond within the meaning of that section) identified under this regulation.

Length of the bathing season

4. For the purposes of these Regulations, the bathing season in England and Wales begins on 15th May and ends at the end of the day on 30th September in each year.

General duties

5.—(1) The Secretary of State, the Welsh Ministers, the Environment Agency and the Natural Resources Body for Wales must exercise their relevant functions in England and Wales—

- (a) so as to ensure that, by the end of the bathing season in 2015, all bathing waters are classified under regulation 11 at least as “sufficient”;
- (b) so as to take such realistic and proportionate measures as they each consider appropriate with a view to increasing the number of bathing waters classified under regulation 11 as “good” or “excellent”; and

(a) 1991 c. 57.

- (c) in all other respects, so as to ensure compliance with the requirements of the Bathing Water Directive.

(2) In this regulation, “relevant functions” means functions, so far as relevant, under the enactments listed in Schedule 2 (enactments) to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003(a).

(3) The appropriate agency must promptly provide—

- (a) to the appropriate Minister such information about the quality of bathing waters as the appropriate Minister may by notice reasonably require; and
- (b) to a local authority such information about the quality of the bathing waters that it controls as that local authority may by notice reasonably require.

Public participation

6.—(1) The Secretary of State, the Welsh Ministers and the appropriate agency must—

- (a) encourage public participation in the exercise of their respective functions under these Regulations; and
- (b) ensure that the public has an opportunity—
 - (i) to find out how to participate, and
 - (ii) to submit suggestions, comments or complaints.

(2) The Secretary of State, the Welsh Ministers and the appropriate agency must take due account of any suggestions, comments or complaints they have obtained from the public when exercising their respective functions under these Regulations.

PART 2

BATHING WATER PROFILES

Bathing water profiles

7.—(1) The appropriate agency must—

- (a) ensure that prior to the start of each bathing season, it has established a bathing water profile for every bathing water; and
- (b) keep every bathing water profile under review.

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

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

- (a) the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003;
- (b) the Water Environment (Water Framework Directive) (Northumbria River Basin District) Regulations 2003(b); or
- (c) the Water Environment (Water Framework Directive) (Solway Tweed River Basin District) Regulations 2004(c).

(4) Schedule 3 (bathing water profiles) has effect.

(a) S.I. 2003/3242, as amended by: S.I. 2008/1097, 2007/3538, 2010/675, 2011/556; W.S.I 2013/755 (W. 90). See also regulation 19(3) of these Regulations for further amendments to this instrument.

(b) S.I. 2003/3245.

(c) S.I. 2004/99. This instrument is amended by regulation 19(4) of these Regulations.

PART 3

MONITORING ETC. OF BATHING WATERS AND PUBLIC INFORMATION

Monitoring etc.

- 8.**—(1) The appropriate agency must establish a monitoring programme for every bathing water.
- (2) The monitoring programme for intestinal enterococci and *Escherichia coli* must be in accordance with Part 1 of Schedule 4.
- (3) The appropriate agency must undertake appropriate monitoring for cyanobacteria in accordance with Part 2 of Schedule 4.
- (4) The appropriate agency must undertake investigations for macro-algae and marine phytoplankton in accordance with Part 3 of Schedule 4.
- (5) The appropriate agency must undertake visual inspections for waste, including tarry residues, glass, plastic or rubber in accordance with Part 4 of Schedule 4.
- (6) After the end of every bathing season, the appropriate agency must notify the appropriate Minister, giving reasons, if it has suspended the monitoring calendar in accordance with paragraph 2 of Schedule 4.

Public information

- 9.**—(1) Every local authority that controls a bathing water must ensure that the following information about the bathing water 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—
- (a) the bathing water’s current classification pursuant to regulation 11, represented by a symbol in accordance with Part 2 of the Annex to the Decision;
 - (b) any advice against bathing which has been issued 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) information on the nature and expected duration of abnormal situations there; and
 - (e) an indication of the sources of more complete information published in accordance with paragraph (2).
- (2) In relation to every bathing water, the appropriate agency must use appropriate media and technologies including the internet to actively and promptly disseminate the following information in such languages as the appropriate agency considers appropriate—
- (a) the information referred to in paragraph (1);
 - (b) before the start of every bathing season, the bathing water’s classification in accordance with regulation 11 over the last three years;
 - (c) the current bathing water profile;
 - (d) as soon as possible after the completion of the analysis under Schedule 4, the results of the monitoring carried out in accordance with regulation 8(2) since the beginning of the current bathing season;
 - (e) where the bathing water is classified as “poor” under regulation 11, information as to—
 - (i) the causes of pollution there, and
 - (ii) the management measures being taken there under regulation 13; and
 - (f) information as to incidences of short-term pollution so far as required by regulation 14(2)(c)(i) to (v).
- (3) The appropriate agency must—

- (a) prepare a general description of every bathing water for use under paragraph (1)(c); and
 - (b) make the descriptions available to local authorities.
- (4) Public information under these Regulations must—
- (a) wherever possible, be provided using a geographic information system; and
 - (b) be presented in a clear and coherent manner.

PART 4

BATHING WATER ASSESSMENT AND CLASSIFICATION

Assessment

- 10.—(1) At the end of every bathing season, for every bathing water, the appropriate agency 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) In this regulation, the “relevant assessment period” is—
- (a) the immediately preceding three bathing seasons;
 - (b) the immediately preceding two bathing seasons, if the appropriate agency so determines in accordance with paragraph (3); or
 - (c) the number of immediately preceding bathing seasons, being less than three, that the appropriate agency determines in accordance with paragraph (4).
- (3) The appropriate agency may make a determination under paragraph (2)(b) where—
- (a) it has consulted the appropriate Minister; and
 - (b) it is at least five years since the last change in the relevant assessment period.
- (4) The appropriate agency may make a determination under paragraph (2)(c), if—
- (a) it has consulted the appropriate Minister;
 - (b) the set of bathing water quality data used is based on at least 16 samples; and
 - (c) it considers that any factors identified in the bathing water profile as likely to affect the classification of the bathing water under regulation 11 have changed, and the set of bathing water quality data used is based only on samples taken since those factors have changed.

Classification

- 11.—(1) On the basis of each assessment made under regulation 10, the appropriate agency must classify every bathing water as “poor”, “sufficient”, “good” or “excellent” in accordance with Schedule 5.
- (2) The first classification of bathing waters under this regulation must be completed at the end of the bathing water season in 2015.

PART 5

MANAGEMENT OF BATHING WATERS

Management measures at bathing waters subject to pollution incidents

- 12.—(1) This regulation applies where a body mentioned in paragraph (2) is aware of—
- (a) an incident of contamination by intestinal enterococci or *Escherichia coli*, other than an incident of short-term pollution to which regulation 15 applies, that the body considers may pose a risk to bathing water quality and bathers' health;
 - (b) a cyanobacterial proliferation which the body considers may pose a risk to bathers' health;
 - (c) a proliferation of macro-algae or marine phytoplankton which the body considers is unacceptable or may pose a risk to bathers' health;
 - (d) the presence of waste, including tarry residues, glass, plastic or rubber; or
 - (e) any other incident, other than an incident of short-term pollution to which regulation 15 applies, that the body considers may pose a risk to bathing water quality and bathers' health.
- (2) The bodies are:
- (a) the appropriate agency;
 - (b) a sewerage undertaker;
 - (c) a local authority.
- (3) The appropriate agency must promptly or, in the case of a cyanobacterial proliferation under paragraph (1)(b), immediately—
- (a) consult—
 - (i) the local authority that controls the bathing water, and
 - (ii) if necessary, the local sewerage undertaker;
 - (b) use appropriate media and technologies to actively and promptly disseminate information to the public, in such languages as are appropriate, and take such other appropriate agency management measures as it considers appropriate, to prevent exposing bathers to identified or presumed health risks.
- (4) The sewerage undertaker must, if necessary, promptly consult—
- (a) the appropriate agency, and
 - (b) the local authority that controls the bathing water.
- (5) The local authority must promptly or, in the case of a cyanobacterial proliferation under paragraph 1(b), immediately—
- (a) consult the appropriate agency so far as necessary;
 - (b) notify the local sewerage undertaker, if necessary;
 - (c) 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 other local authority management measures as it considers appropriate, to prevent exposing bathers to identified or presumed health risks; and
 - (d) in the case of pollution by waste, remove the waste.

Additional management measures at “poor” bathing waters

- 13.—(1) Where the appropriate agency classifies a bathing water as “poor” under regulation 11—
- (a) the appropriate agency must, during the bathing season following this classification—

- (i) take or cause to be taken appropriate agency management measures at the bathing water to prevent, reduce or eliminate (as appropriate) the causes of pollution;
 - (ii) take, or cause to be taken appropriate agency management measures at the bathing water as it considers adequate with a view to preventing bathers' exposure to pollution;
 - (iii) notify the local authority that controls the bathing water; and
 - (iv) identify the reasons why the bathing water failed to achieve a classification of "sufficient";
- (b) the local authority that controls the bathing water must issue an advice against bathing at that bathing waters, and must take such local authority management measures as it considers adequate, with a view to preventing bathers' exposure to pollution.
- (2) The appropriate agency must issue permanent advice against bathing in respect of a bathing water if—
- (a) the appropriate agency has classified the bathing water as "poor" under regulation 11 for five consecutive years; or
 - (b) having consulted the local authority that controls the bathing water, the appropriate agency advises the appropriate Minister that it considers that it would be infeasible or disproportionately expensive for the bathing water to achieve a classification of "sufficient" and the appropriate Minister accepts that advice.
- (3) Where permanent advice against bathing has been issued under paragraph (2) in relation to a bathing water, the appropriate agency must—
- (a) notify the local authority that controlled the former bathing water—
 - (i) that permanent advice against bathing has been issued there, giving reasons; and
 - (ii) that it is no longer a bathing water; and
 - (b) use appropriate media and technologies including the internet to actively and promptly disseminate all the following information to the public, in such languages the appropriate agency considers appropriate, in relation to the former bathing water—
 - (i) that permanent advice against bathing has been issued there;
 - (ii) the fact that it is no longer a bathing water;
 - (iii) the reasons for its declassification.
- (4) When a local authority has received notification under paragraph (3)(a), it must ensure that the following information in relation to the former bathing water is actively disseminated and promptly made available to the public in an easily accessible place in the near vicinity of that former bathing water during the bathing season—
- (a) that permanent advice against bathing has been issued there, represented by a symbol in accordance with Part 1 of the Annex to the Decision;
 - (b) the fact that it is no longer a bathing water;
 - (c) the reasons for the declassification.

Public information and general provisions about short-term pollution

14.—(1) This regulation applies where, having consulted the local authority that controls a bathing water, the appropriate agency has established relevant procedures for short-term pollution at the bathing water.

- (2) The appropriate agency must—
- (a) ensure that the bathing water profile established under regulation 7 contains—
 - (i) information as to the anticipated nature, frequency and duration of expected short-term pollution;
 - (ii) details of any remaining causes of short-term pollution;

- (iii) details of the appropriate agency management measures taken and the time schedule for the elimination of the causes of the short-term pollution; and
- (iv) information on relevant procedures for short-term pollution taken during a short-term pollution incident and the identity and contact details of any person responsible for taking such action;
- (b) notify the local authority that controls the bathing water when short-term pollution is predicted there; and
- (c) publish on its website the following information—
 - (i) the conditions likely to lead to short-term pollution at the bathing water;
 - (ii) the likelihood of short-term pollution there and its likely duration;
 - (iii) the causes of short-term pollution there;
 - (iv) the relevant procedures for short-term pollution in place there; and
 - (v) the information referred to in paragraph (3).
- (3) The local authority must ensure that the following 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—
 - (a) an indication of the number of days for which advice against bathing was issued there during the immediately preceding bathing season because of short-term pollution; and
 - (b) a warning whenever short-term pollution is predicted or present there.
- (4) In the event of short-term pollution, the appropriate agency must take one additional sample, as soon as possible after the pollution incident is presumed to have ended, to verify that it has in fact ended.
- (5) The appropriate agency may disregard samples taken during short-term pollution from the set of bathing water quality data for the bathing water if—
 - (a) as soon as possible after the end of a short-term pollution incident, the appropriate agency has taken the additional sample required by paragraph (4) in order to verify that the incident has ended;
 - (b) the appropriate agency has not included that sample in the set of bathing water quality data for the bathing water; and
 - (c) seven days after the end of a short-term pollution incident, the appropriate agency has, if necessary, taken an additional sample to ensure that it has the minimum number required for the bathing water for the bathing season.
- (6) The appropriate agency must not classify the bathing water under regulation 11 as “sufficient”, “good” or “excellent” unless the number of samples disregarded under paragraph (5) represents no more than the greater of—
 - (a) 15% of the total number of samples provided for in the monitoring calendars established under paragraph 2 of Schedule 4 for the same period; and
 - (b) one sample per bathing season.

Relevant procedures for short-term pollution

- 15.** Where there is short-term pollution at a bathing water to which regulation 14 applies—
- (a) the appropriate agency must—
 - (i) notify the local authority that controls the bathing water, and
 - (ii) operate, or cause to be operated, any relevant procedures for short-term pollution which are not in operation and for which it is responsible;
 - (b) the local authority must—
 - (i) take the local authority management measures which form part of the relevant procedures for short-term pollution there; and

- (ii) ensure that notification that the bathing water is affected by short-term pollution 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.

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^(a) (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^(b) (information in connection with the control of pollution) has effect as if it conferred power on the Secretary of State, the Welsh Ministers, 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.

(a) 1995 c.25, as amended by W.S.I 2013/755 (W. 90); there are other amending instruments but none is relevant.
(b) 1991 c.57, as amended W.S.I 2013/755 (W. 90).

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(a), 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(b) (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(c) have effect as if—

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

(2) The Bathing Waters (Classification) Regulations 1991 and the Bathing Waters (Classification) (England) Regulations 2003(f) are revoked.

(3) In the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003(g), in Schedule 2 (enactments), in Part 2 (subordinate instruments)—

- (a) omit paragraphs 11 and 26;

(a) 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.

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

(c) 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.

(d) 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).

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

(f) S.I.2003/1238.

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

- (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^(a), 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.

1st July 2013

Richard Benyon
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

3rd July 2013

Alun Davies
Minister for Natural Resources and Food, one of the Welsh Ministers

(a) S.I. 2004/99.

SCHEDULE 1

Regulation 2

DEFINITIONS FROM THE WATER FRAMEWORK DIRECTIVE

“Coastal water” means surface water on the landward side of a line, every point of which is at a distance of one nautical mile on the seaward side from the nearest point of the baseline from which the breadth of territorial waters is measured^(a), extending where appropriate up to the outer limit of transitional waters.

“Groundwater” means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil.

“Inland water” means all standing or flowing water on the surface of the land, and all groundwater on the landward side of the baseline from which the breadth of territorial waters is measured.

“Lake” means a body of standing inland surface water.

“River” means a body of inland water flowing for the most part on the surface of the land but which may flow underground for part of its course.

“Surface water” means inland waters, except groundwater; transitional waters and coastal waters, except in respect of chemical status for which it shall also include territorial waters.

“Transitional waters” are bodies of surface water in the vicinity of river mouths which are partly saline in character as a result of their proximity to coastal waters but which are substantially influenced by freshwater flows.

SCHEDULE 2

Regulation 3

SURFACE WATERS IDENTIFIED IN ENGLAND AND WALES

PART 1

Surface Waters in England^(b)

Allonby South	Amble Links	Anderby
Anstey’s Cove (Torquay)	Askam-in-Furness	Babbacombe
Bamburgh Castle	Bantham	Beachlands Central
Beachlands West	Beacon Cove	Beadnell
Beer	Bembridge	Berrow North of Unity Farm
Bexhill	Bigbury-on-Sea North	Bigbury-on-Sea South
Birling Gap	Bispham	Blackpool Central
Blackpool North	Blackpool Sands	Blackpool South
Blue Anchor West	Blyth South Beach	Bognor Regis (Aldwick)
Bognor Regis East	Botany Bay (Broadstairs)	Bournemouth Alum Chine
Bournemouth Boscombe Pier	Bournemouth Durley Chine	Bournemouth Fisherman’s Walk
Bournemouth Hengistbury	Bournemouth Pier	Bournemouth Southbourne

(a) The relevant baseline, for the purposes of this definition and the definition of “inland water”, is that from which the breadth of the territorial sea is measured and is established by section 1 of the Territorial Sea Act 1987 (c.49) and the Territorial Waters Order in Council 1964 (1965 III, p.6452A).

(b) Further details of the location and extent of a bathing water in England are available on request by contacting the Department for Environment, Food and Rural Affairs, Bathing Waters Team, Area 3D Nobel House, 17 Smith Square, London SW19 3JR.

West		
Bovisand	Bowleaze Cove	Bracklesham Bay
Breakwater Beach (Shoalstone)	Brean	Bridlington North Beach
Bridlington South Beach	Brightlingsea	Brighton Central
Brighton Kemptown	Broadsands	Broadstairs (Stone Bay)
Broadstairs (Viking Bay)	Bude Crooklets	Bude Sandy Mouth
Bude Summerleaze	Budleigh Salterton	Burnham Jetty
Caister Point	Calshot	Camber
Carbis Bay Porth Kidney Sands	Carbis Bay Station Beach	Cawsand
Cayton Bay	Challaborough	Chapel Porth
Chapel St Leonards	Charlestown	Charmouth West
Christchurch Avon Beach	Christchurch Bay	Christchurch Friar's Cliff
Christchurch Highcliffe Castle	Christchurch Mundeford Sandbank East	Church Cove
Church Ope Cove	Clacton	Clacton (Groyne 41)
Clacton Beach Martello Tower	Cleethorpes	Clevedon Beach
Cleveleys	Colwell Bay	Colwick Country Park (West Lake)
Combe Martin	Combesgate Beach, Woolacombe	Compton Bay
Constantine Bay	Cotswold Country Park and Beach	Coverack
Cowes	Crackington Haven	Crantock
Crimdon	Crinnis Golf Links	Crinnis Leisure Centre
Cromer	Croyde Bay	Danes Dyke, Flamborough
Dartmouth Castle and Sugary Cove	Dawlish Coryton Cove	Dawlish Town
Dawlish Warren	Daymer Bay	Deal Castle
Dovercourt	Downderry	Druridge Bay North
Druridge Bay South	Dunster North West	Duporth
Durdle Door East	Durdle Door West	Dymchurch
East Looe	East Runton	Eastbourne
Eastney	Eastoke	Exmouth
Eypemouth	Felixstowe North	Felixstowe South
Felpham	Filey	Fistral
Flamborough South Landing	Fleetwood	Folkestone
Formby	Fraisthorpe	Frensham Great Pond
Frinton	Goodrington	Gorleston Beach
Gorran Haven (Vault)	Gorran Haven Little Perhaver	Great Western
Great Yarmouth North	Great Yarmouth Pier	Great Yarmouth South
Gurnard	Gyllyngvase	Hampstead Heath (Ladies Pond)
Hampstead Heath (Men's Pond)	Hampstead Heath (Mixed Pond)	Harlyn Bay
Hartland Quay	Hastings	Haverigg
Heacham	Hemsby	Herne Bay
Herne Bay Central	Highcliffe	Hillhead
Hive	Holland	Hollicombe
Holywell Bay	Hope Cove	Hornsea
Hove	Humberston Fitties	Hunstanton Main Beach
Hunstanton (Old Hunstanton)	Hythe	Ilfracombe Hele
Ilfracombe Tunnels Beach	Ilfracombe Wildersmouth	Ingoldmells South

Instow	Jaywick	Joss Bay (Broadstairs)
Kennack Sands	Kimmeridge Bay	Kingsand
Ladram Bay	Lancing, Beach Green	Lee-on-Solent
Leigh Bell Wharf	Lepe	Leysdown
Littlehampton	Littlestone	Low Newton
Lowestoft (North of Claremont Pier)	Lowestoft (South of Claremont Pier)	Lulworth Cove
Lusty Glaze	Lyme Regis Church Cliff Beach	Lyme Regis Front Beach
Lynmouth	Mablethorpe Town	Maenporth
Maidencombe	Margate Fulsam Rock	Margate The Bay
Marsden	Marske Sands	Mawgan Porth
Meadfoot	Meols	Middleton-on-sea
Milford-on-sea	Mill Bay	Millendreath
Minehead Terminus	Minnis Bay (Birchington)	Minster Leas
Moggs Eye	Morecambe North	Morecambe South
Moreton	Mothecombe	Mother Ivey's Bay
Mounts Bay Heliport	Mounts Bay Marazion	Mounts Bay Penzance
Mounts Bay Wherry Town	Mundesley	Ness Cove
Newbiggin North	Newbiggin South	Newhaven
Norman's Bay	Oddicombe	Pagham
Paignton Paignton Sands	Paignton Preston Sands	Par
Pendower	Pentewan	Perranporth Penhale Sands
Perranporth Village End	Perranuthnoe	Pevensey Bay
Plymouth Hoe East	Plymouth Hoe West	Poldhu Cove
Polkerris	Polstreath	Polurrian Cove
Polzeath	Poole Branksome Chine	Poole Canford Cliffs Chine
Poole Harbour Lake	Poole Harbour Rockley Sands	Poole Sandbanks Peninsular
Poole Shore Road Beach	Porlock Weir	Porth
Porthallow	Porthcothan	Porthcurnick
Porthcurno	Porthgidden	Porthleven West
Porthluney	Porthmeor	Porthminster
Porthoustock	Porthpean	Porthtowan
Portland Harbour Castle Cove	Portland Harbour Sandsfoot Castle	Portmellon
Portreath	Portwrinkle	Praa Sands East
Praa Sands West	Putsborough	Ramsgate Sands
Ramsgate Western Undercliffe	Readymoney	Redcar Coatham
Redcar Granville	Redcar Lifeboat Station	Redcar Stray
Reighton	Ringstead Bay	Roan Head
Robin Hoods Bay	Rock	Roker - Sunderland
Runswick Bay	Ryde	Salcombe North Sands
Salcombe South Sands	Saltburn	Saltdean
Sandgate	Sandown	Sandsend
Sandwich Bay	Sandy Bay	Saunton Sands
Scarborough North Bay	Scarborough South Bay	Sea Palling
Seaburn – Sunderland	Seaford	Seagrove
Seaham Beach	Seaham Hall Beach	Seahouses North
Seascale	Seaton (Cornwall)	Seaton (Devon)
Seaton Carew Centre	Seaton Carew North	Seaton Carew North Gare
Seaton Sluice	Seatown	Selsey
Sennen	Shaldon	Shanklin
Sheerness	Shell Bay North	Sheringham

Shoebury East	Shoeburyness	Sidmouth Jacobs Ladder
Sidmouth Town	Silecroft	Silloth
Skegness	Skipsea	Slapton Sands Monument
Slapton Sands Torcross	South Shields	Southend Chalkwell
Southend Jubilee	Southend Thorpe Bay	Southend Three Shells
Southend Westcliff Bay	Southport	Southsea
Southwick	Southwold The Denes	Southwold The Pier
Spittal	St Annes	St Annes North
St Bees	St Helens	St Leonards
St Margaret's Bay	St Mary's Bay (Devon)	St Mary's Bay (Kent)
St Mildreds Bay (Westgate)	Staithes	Stokes Bay
Studland Knoll House	Sutton-on-Sea	Swanage Central
Swanpool	Tankerton	Teignmouth Holcombe
Teignmouth Town	The Serpentine - Hyde Park	The Towans (Godrevy)
The Towans (Hayle)	Thurleston North	Thurleston South
Tolcarne	Torre Abbey	Totland Bay
Towan	Trebarwith Strand	Trevaunance Cove
Trevone Bay	Treyarnon Bay	Tunstall
Tynemouth Cullercoats	Tynemouth King Edwards Bay	Tynemouth Long Sands North
Tynemouth Long Sands South	Ventnor	Wallasey
Walney Biggar Bank	Walney Sandy Gap	Walney West Shore
Walpole Bay (Margate)	Walton	Warkworth
Watcombe	Watergate Bay	Wells
Wembury	West Bay (West)	West Bay (Westgate)
West Beach, Whitstable	West Kirby	West Mersea
West Wittering	Westbrook Bay (Margate)	Weston Main
Weston-super-Mare Sand Bay	Weston-super-Mare Uphill Slipway	Westward Ho!
Weymouth Central	Weymouth Lodmoor	Whitby
Whitecliff Bay	Whitley Bay	Whitsand Bay (Sharrow)
Widemouth Sand	Wilsthorpe	Winchelsea
Windermere, Fellfoot	Windermere, Lakeside YMCA	Windermere, Millerground Landing
Withernsea	Woolacombe Village	Worthing
Yaverland		

PART 2

Surface Waters in Wales(a)

Aberafan	Aberdaron	Aberdyfi
Abereiddy	Aberffraw	Abergele (Pensarn)
Abermawr	Aberporth	Abersoch
Aberystwyth North	Aberystwyth South	Amroth Central
Barafundle	Barmouth	Benllech
Borth	Borth Wen	Bracelet Bay
Broad Haven (Central)	Broad Haven South	Caerfai
Castle Beach Tenby	Caswell Bay	Cemaes
Church Bay	Cilborth	Clarach South

(a) Further details of the location and extent of a bathing water in Wales are available on request by contacting the Welsh Government, Water Branch, Cathays Park, Cardiff, CF10 3NQ.

Cold Knap	Colwyn Bay	Coppet Hall
Craig Du Central	Criccieth	Dale
Druidston Haven	Dyffryn (Llanendwyn)	Fairbourne
Freshwater East	Freshwater West	Harlech
Jackson's Bay Barry Island	Kinnel Bay (Sandy Cove)	Langland Bay
Limeslade Bay	Little Haven	Llandanwg Central
Llanddona	Llanddwyn	Llandudno North
Llandudno West	Llanfairfechan	Llangrannog
Llanrhystud	Lydstep	Manorbier
Marine Lake, Rhyl	Marloes Sands	Morfa Dinlle
Morfa Nefyn	Mwnt	New Quay Harbour
New Quay North	Newgale	Newport
Nolton Haven	Oxwich Bay	Pembrey
Penally	Penbryn	Pendine
Penmaenmawr	Poppit Sands	Port Eynon
Porth Dafarch	Porth Neigwl	Prestatyn Central
Pwllheli	Rest Bay	Rhosneigr
Rhossili	Rhyl	Sandy Bay
Sandy Haven	Saundersfoot	Silver Bay, Rhoscolyn
Southerndown	St. Davids, Benllech	Swansea Bay
Talybont	Tenby North	Tenby South
Traeth Gwyn New Quay	Traeth Lligwy	Trearddur Bay
Trecco Bay	Tresaith	Tywyn
West Angle	Whitesands	Whitmore Bay Barry Island
Wiseman's Bridge		

SCHEDULE 3

Regulation 7

BATHING WATER PROFILES

Contents

- 1.—(1) Every bathing water profile must—
- (a) contain a description of the physical, geographical and hydrological characteristics of—
 - (i) the bathing water; and
 - (ii) any other surface water in the catchment area of the bathing water where the surface water could be a source of pollution for the bathing water;
 - (b) identify and assess the causes of pollution that might affect bathing water quality and pose a risk to bathers' health;
 - (c) assess the potential for cyanobacterial proliferation;
 - (d) assess the potential for the proliferation of macro-algae or phytoplankton; and
 - (e) identify the location of the monitoring point.
- (2) The information in sub-paragraph (1)(a) and (b) must be detailed on a map whenever practicable.

Review

- 2.—(1) Where a bathing water is classified as “poor”, “sufficient” or “good” under regulation 11, the appropriate agency must review, and if necessary update, the bathing water profile, taking

into account the nature and severity of the pollution which affects the bathing water and at the following minimum frequency—

- (a) if classified as “poor”, every two years;
- (b) if classified as “sufficient”, every three years; and
- (c) if classified as “good”, every four years.

(2) Where there are significant construction works or infrastructure changes in or around a bathing water, the appropriate agency must review the bathing water profile before the start of the next bathing season.

SCHEDULE 4 MONITORING ETC

Regulation 8

PART 1

INTESTINAL ENTEROCOCCI AND ESCHERICHIA COLI

Location of monitoring point

1. The appropriate agency must—

- (a) at every bathing water, locate the monitoring point where most bathers are expected; and
- (b) subject to paragraph 7, where possible, take samples 30 centimetres below the water’s surface and in water at least one metre deep.

Monitoring calendar

2.—(1) The appropriate agency must—

- (a) establish a monitoring calendar for every bathing water before the start of every bathing season; and
- (b) take samples at every bathing water no later than four days after the date specified in the monitoring calendar.

(2) In relation to any abnormal situation, the appropriate agency—

- (a) may suspend the monitoring calendar for the duration of the situation; and
- (b) as soon as possible after the end of the situation, must take sufficient additional samples to replace those missing due to the suspension and to ensure that it has the minimum number required for the bathing water for the bathing season.

Frequency of monitoring

3. The appropriate agency must—

- (a) take and analyse the first sample for every bathing season shortly before the start of that season; and
- (b) take and analyse samples at intervals not exceeding one month, from every bathing water throughout the bathing water season.

Sampling equipment

4.—(1) Subject to paragraph 7, the appropriate agency must only use sampling bottles which—

- (a) have been—

- (i) sterilised in an autoclave for at least 15 minutes at 121 degrees Celsius;
 - (ii) dry sterilised at no lower than 160 degrees Celsius and no higher than 170 degrees Celsius for at least one hour; or
 - (iii) irradiated by their manufacturer and not used previously;
 - (b) are of a size which allows sufficient water to be taken and analysed for the presence of intestinal enterococci and *Escherichia coli*; and
 - (c) are made of transparent and colourless material.
- (2) The appropriate agency must—
- (a) use aseptic techniques to maintain the sterility of the sample bottles; and
 - (b) clearly identify every sample taken by marking in indelible ink the sample bottle and associated paperwork.

Storage and transport of samples before analysis

- 5.—(1) Subject to paragraph 7, the appropriate agency must—
- (a) at all times, protect every sample taken from exposure to light, and in particular, direct sunlight; and
 - (b) conserve every sample at a temperature of around 4 degrees Celsius between sampling and laboratory analysis.
- (2) In relation to any sample, if the interval between sampling and laboratory analysis is likely to exceed four hours, the appropriate agency must conserve the sample in a refrigerator.
- (3) The appropriate agency must ensure that the time between sampling and laboratory analysis does not exceed 24 hours and must use its best endeavours to keep this time as short as possible.

Reference methods of analysis

- 6.—(1) Subject to paragraph 7, the appropriate agency must use the following reference methods of analysis—
- (a) for intestinal enterococci, one of the following standards of the International Organization for Standardization—
 - (i) ISO 7899-1:1998 (water quality, detection and enumeration of intestinal enterococci, Part 1, miniaturized method, most probable number, for surface and waste water) as amended by Cor 1:2000, or
 - (ii) ISO 7899-2:2000 (water quality, detection and enumeration of intestinal enterococci, Part 2, membrane filtration method); and
 - (b) for *Escherichia coli*, one of the following standards of the International Organization for Standardization—
 - (i) ISO 9308-1:2000 (water quality, detection and enumeration of *Escherichia coli* and coliform bacteria, Part 1, membrane filtration method) as amended by Cor 1:2007, or
 - (ii) ISO 9308-3:1998 (water quality, detection and enumeration of *Escherichia coli* and coliform bacteria, Part 3, miniaturized method, most probable number, for the detection and enumeration of *E. coli* in surface and waste water) as amended by Cor 1:2000.

General provisions in relation to rules or reference methods of analysis

7. The appropriate agency—
- (a) must have regard to the guidelines on the handling of samples for microbiological analyses given in Annex V to the Bathing Water Directive; and
 - (b) may use such rules or reference methods of analysis as it considers are substantively equivalent to those specified in this Schedule, where the appropriate agency has

notified the appropriate Minister giving details of such rules and methods and their equivalence.

PART 2

CYNOBACTERIA

8. Where any bathing water profile indicates a potential for cyanobacterial proliferation, the appropriate agency must undertake appropriate monitoring at the bathing water at the frequency necessary to allow adequate management measures to be put in place in accordance with regulation 12.

PART 3

MACRO-ALGAE AND MARINE PHYTOPLANKTON

9. Where any bathing water profile indicates a tendency for proliferation of macro-algae or marine phytoplankton, the appropriate agency must undertake investigations at the bathing water to allow adequate management measures to be put in place in accordance with regulation 12.

PART 4

WASTE

10. The appropriate agency must undertake visual inspections at every bathing water at the frequency necessary to allow adequate management measures to be put in place in accordance with regulation 12.

SCHEDULE 5

Regulation 11

CLASSIFICATION

Standards

1. The appropriate agency must use the following standards for classification—

Standards for inland waters

<i>Parameter</i>	<i>“Excellent”</i>	<i>“Good”</i>	<i>“Sufficient”</i>
Intestinal enterococci ⁽¹⁾	200 ⁽²⁾	400 ⁽²⁾	330 ⁽³⁾
<i>Escherichia coli</i> ⁽¹⁾	500 ⁽²⁾	1,000 ⁽²⁾	900 ⁽³⁾

⁽¹⁾ Colony forming units per 100 millilitres (“cfu/100 ml”).

⁽²⁾ Based upon a 95-percentile evaluation-see paragraph 2.

⁽³⁾ Based upon a 90-percentile evaluation-see paragraph 2.

Standards for coastal and transitional waters

<i>Parameter</i>	<i>“Excellent”</i>	<i>“Good”</i>	<i>“Sufficient”</i>
Intestinal enterococci ⁽¹⁾	100 ⁽²⁾	200 ⁽²⁾	185 ⁽³⁾
<i>Escherichia coli</i> ⁽¹⁾	250 ⁽²⁾	500 ⁽²⁾	500 ⁽³⁾

⁽¹⁾ Colony forming units per 100 millilitres (“cfu/100 ml”).

⁽²⁾ Based upon a 95-percentile evaluation-see paragraph 2.

⁽³⁾ Based upon a 90-percentile evaluation-see paragraph 2.

Methodology

2.—(1) In this Schedule, “percentile value” is based on a percentile evaluation of the \log_{10} normal probability density function of microbiological data used for the assessment under regulation 10.

(2) The appropriate agency must derive a percentile value as follows—

- (a) take the \log_{10} value of all bacterial concentrations in the data sequence to be evaluated or, if a zero value is obtained, take the \log_{10} value of the minimum detection limit of the analytical method used;
- (b) calculate the arithmetic mean (“ μ ”) of the \log_{10} values taken under paragraph (a);
- (c) calculate the standard deviation (“ σ ”) of the \log_{10} values taken under paragraph (a);
- (d) derive the upper 90-percentile point of the data probability density function from the following equation: upper 90-percentile = $\text{antilog}(\mu + 1.282 \sigma)$; and
- (e) derive the upper 95-percentile point of the data probability density function from the following equation: upper 95-percentile = $\text{antilog}(\mu + 1.65 \sigma)$.

Classification

3.—(1) At the end of every bathing season, the appropriate agency must classify a bathing water as “poor” if, in the set of bathing water quality data used, the percentile values for microbiological concentrations are higher than the “sufficient” standards set out in paragraph 1.

(2) At the end of every bathing season, the appropriate agency must classify a bathing water as “sufficient” if—

- (a) in the set of bathing water quality data, the percentile values for microbiological concentrations are equal to or lower than the “sufficient” standards set out in paragraph 1; and
- (b) the bathing water is not classifiable as “good” or “excellent”.

(3) At the end of every bathing season, the appropriate agency must classify a bathing water as “good” if—

- (a) in the set of bathing water quality data, the percentile values for microbiological concentrations are equal to or lower than the “good” standards set out in paragraph 1; and
- (b) the bathing water is not classifiable as “excellent”.

(4) At the end of every bathing season, the appropriate agency must classify a bathing water as “excellent” if, in the set of bathing water quality data used, the percentile values for microbiological concentrations are equal to or lower than the “excellent” standards set out in paragraph 1.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Bathing Water Regulations 2008 and implement, in England and Wales only, Directive 2006/7/EC of the European Parliament and of the Council concerning the management of bathing water quality and repealing Directive 76/160/EEC (OJ L64, 4.3.2006, p.37) (“the Bathing Water Directive”). The Bathing Water Directive is available from the Europa website:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006L0007:EN:NOT>.

These Regulations also implement Commission Implementing Decision 2011/321/EU establishing, pursuant to Directive 2006/7, a symbol for information to the public on bathing water classification and any bathing prohibition or advice against bathing (OJ No L 143, 31.5.2011, p.38) (“the Decision”).

Regulation 2(1) sets out various definitions including the definition of bathing waters which are defined as surface waters that are identified under regulation 3 and listed in Schedule 2, and at which no permanent advice against bathing is currently in force under regulation 13. Regulation 2(1) refers to the definitions in Schedule 1 which have the same meaning as in Directive 2006/60 EC of the European Parliament and of the Council establishing a framework for community action in the field of water policy.

Regulation 3 provides for specified criteria which must be applied to the identification of such surface waters and other matters which must be given consideration. Regulation 3 also provides that the Secretary of State and the Welsh Ministers must also publish, annually, before the start of the bathing season, a list of all bathing waters within their respective areas, and a list of all surface waters at which permanent advice against bathing has been issued (and which are therefore no longer bathing waters). A copy of the English list (including a list of the names by which some bathing waters were formerly known) may be obtained from , or inspected on request in writing to the Department for Environment, Food and Rural Affairs, Bathing Waters Team, Area 3D Nobel House, 17 Smith Square, London SW19 3JR, by emailing bathingwater@defra.gsi.gov or by downloading from the Department's website at www.gov.uk/defra. A copy of the Welsh list may be obtained on request by writing to the Welsh Government, Water Branch, Cathays Park, Cardiff, CF10 3NQ, by emailing water@wales.gsi.gov.uk or by downloading from the Welsh Government's website at www.wales.gov.uk.

Regulation 4 provides that the bathing season lasts from 15th May to 30th September each year.

Regulation 5 provides for the classification of "sufficient" as the minimum standard to be achieved for all bathing waters by the end of the 2015 bathing season.

Regulation 6 sets out duties in relation to public participation, imposed on the Secretary of State, the Welsh Ministers and 'the appropriate agency' (defined in regulation 2(1) as the Environment Agency in relation to surface waters in England, and the Natural Resources Body for Wales (known as 'Natural Resources Wales') in relation to surface waters in Wales) in order to secure compliance with the Bathing Water Directive.

Under regulation 7, the appropriate agency must establish a bathing water profile for every bathing water. Copies of bathing water profiles in relation to English bathing waters are available from the Environment Agency, National Customer Contact Centre, PO Box 544, Rotherham S60 1BY, by emailing enquiries@environment-agency.gov.uk or from the Agency's website at www.environment-agency.gov.uk/contactus/default.aspx. Copies of bathing water profiles in relation to Welsh bathing waters are available from Natural Resources Wales, Strategic Water Quality and Planning, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP, by emailing enquiries@naturalresourceswales.gov.uk or from Natural Resources Wales' website at www.naturalresourceswales.gov.uk

Under regulation 8 (and Schedule 4), the appropriate agency must establish a suitable monitoring programme for every bathing water.

Regulation 9 provides for the dissemination of the specified information by local authorities and gives effect to signage requirements in the Decision. It also provides that the appropriate agency must disseminate the specified information using appropriate media and technologies.

Under regulations 10 and 11, the appropriate agency must assess the bathing water quality data gathered under its monitoring programme and classify each bathing water as "poor", "sufficient", "good" or "excellent". The meaning of each classification is set out in Schedule 5.

Regulation 12 provides for the management measures which the appropriate agency, sewerage undertakers and local authorities must take in the event of certain pollution events occurring at a bathing water. It also imposes express obligations on the appropriate agency and local authorities to inform the public when such events occur.

Regulation 13 requires the appropriate agency in specified circumstances to issue permanent advice against bathing at a bathing water. The regulation also provides for express obligations on

the appropriate agency and local authorities for publicising the advice and the reasons for declassification of the former bathing water.

Regulations 14 and 15 set out the obligations on the appropriate agency and local authorities to make specified information available to the public in relation to 'short-term pollution' (as defined in regulation 2(1)) at relevant bathing waters.

Regulation 16 contains enforcement provisions and sets out the measures which the appropriate Minister may take against a local authority or private operator.

Regulation 17 states that the appropriate Minister may give guidance to the appropriate agency or any local authority regarding the implementation of the Bathing Water Directive.

Regulation 18 contains transitional provisions.

Regulation 19 revokes the Bathing Water Regulations 2008 and amends with effect from 24th March 2015 certain legislation transposing Council Directive 76/160/EEC concerning the quality of bathing water (OJ No L31, 5.2.1976, p.1) which is repealed by the Bathing Water Directive.

Regulation 20 requires the Secretary of State to review the operation and effect of these Regulations in England and publish a report within five years and within every five years after that. Following a review it will fall to the Secretary of State to consider, in relation to England, whether these Regulations should remain as they are, or be revoked or amended. A further instrument would be needed to revoke or amend these Regulations.

A transposition note and full impact assessment of the effect that this instrument (including the impact assessment prepared in relation to the Bathing Water Regulations 2008) will have on the costs of business and the voluntary sector is available from the Department for Environment, Food and Rural Affairs, Bathing Waters Team, Area 3D Nobel House, 17 Smith Square, London SW19 3JR, by email to bathingwater@defra.gov.uk or from the Department's website at www.gov.uk/defra. These documents are also available from the Welsh Government, Water Branch, Cathays Park, Cardiff, CF10 3NQ, by email to water@wales.gsi.gov.uk or from the Welsh Government's website at www.wales.gov.uk.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Water Branch, Cathays Park, Cardiff, CF10 3NQ, by email to water@wales.gsi.gov.uk or from the Welsh Government's website at www.wales.gov.uk.

Explanatory Memorandum to the Bathing Water (England and Wales) Regulations 2013

This Explanatory Memorandum has been prepared by the Department for Natural Resources & Food and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standard Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Bathing Water (England and Wales) Regulations 2013.

I am satisfied that the benefit outweigh any costs.

Alun Davies - Minister for Natural Resources and Food

28 June 2013

1. Description

These Regulations revoke and replace the Bathing Water Regulations 2008 (S.I. 2008/1097).

This remake of the Regulations remove the responsibilities from private owners of land adjacent to bathing water (small businesses, charities and other private persons in England and Wales) and give the relevant local authority responsibilities for the duties of the bathing water controller including responsibility for public information at the bathing water.

These Regulations bring into force 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 advice against bathing. The Decision sets the symbols which are to be used at all bathing waters in Europe to advise the public on the quality of the water and advice against bathing for bathing waters where the water quality is poor. In Wales and England the “bathing prohibited” signs will not be used.

These Regulations also contain a number of changes to better reflect the exact wording of the Bathing Water Directive in response to a challenge from the Commission on the transposition of the Directive (2006/7/EC (OJ No L 64, 4.3.2006, p 37),

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

The legislation is being made on a composite basis as the Regulations are required to implement the Community law and it is desirable to have a common England and Wales regulatory regime which covers transposition of the Directive.

Section 3 of this Memorandum explains that these Regulations are made in reliance on section 2(2) of the European Communities Act 1972. By virtue of section 59(3) of the Government of Wales Act 2006, the Welsh Ministers are to determine whether an instrument made in exercise of the section 2(2) powers is to be subject to the negative or affirmative procedure.

This statutory instrument is subject to annulment of the Assembly (negative procedure). The Regulations do not amend any provision of an Assembly Act or Measure. They do not impose obligations of special importance. Accordingly, the Welsh Ministers have determined that these Regulations are to be subject to the negative resolution procedure.

3. Legislative background

The National Assembly for Wales was designated (for the purpose of section 2(2) of the European Communities Act 1972) in relation to measures relating to water resources by the European Communities (Designation) (No.4) Order 2003/2901. That designation is now a designation of the Welsh Ministers by virtue of sections 59 and 162 of, and paragraph 28 of Schedule 11 to, the Government of Wales Act 2006.

These Regulations are subject to the negative resolution procedure.

The Bathing Water Directive 2006/7/EC requires, amongst other requirements, public information on water quality to be displayed in the near vicinity of all designated bathing waters. The purpose of the Directive is to preserve, protect and improve the quality of the environment and to protect human health by complementing the Water Framework Directive 2000/60/EC.

There are currently 100 designated bathing waters in Wales, 90 of which are controlled by 12 different local authorities ("LAs"). Ten are privately controlled, by eight different private controllers. Over the last two years the Welsh Government has received a total of 40 applications for bathing water designations with 19 demonstrating the requirements of the Directive for designation. It is expected that this trend will continue.

From 15 May 2012 **all** bathing water controllers, both LAs and private controllers, have been required to display, during the bathing season, information/signage offering a brief description of sources of pollution affecting the bathing water quality at designated bathing water sites. These descriptions were based on Natural Resources Wales profiles and enable bathers to make an informed decision on where and when to bathe. The information includes:

- The bathing water classification (currently in accordance with the old Directive 76/160/EEC)
- Any advice against bathing that has been introduced there, with reasons;
- A general description of the bathing waters based on its bathing water profile;
- Information on abnormal situations and their expected duration; and
- Information on where to find more detailed information.
- Specified information/warnings concerning short-term pollution.

An additional requirement under the Directive will need to be met from the 2016 bathing season, whereby all bathing water controllers will be required to display the appropriate symbol for the bathing water classification ('excellent', 'good', 'sufficient' or 'poor'). This will show the classification received at the end of the previous year's bathing season. At bathing waters classified as 'poor', the symbol for 'advice against bathing' must also be displayed. It is also anticipated that the information at all designated bathing water sites will be subject to ongoing changes to ensure that bathers have the most recent information available to them.

In 2011, to assist bathing water controllers to meet their information obligations, the Welsh Government made funding available for all bathing waters in Wales that were so designated prior to the 2011 bathing season. This funding represented a one-off payment for the 88 bathing waters designated prior to the 2011 bathing season and does not apply to any newly designated bathing waters after that date. The funding

was intended to cover the full cost of providing the required signage so as to reduce the financial burden of the water quality information requirement on bathing water controllers. The expectation was that signage should already be in place for the 2012 information requirements set out in the Directive. The Welsh Government also made a recommendation that signs should include space for a moveable panel or sticker to be added in order to meet the additional information requirements that will apply from the 2016 bathing season, minimising any future costs to bathing water controllers.

4. Purpose & intended effect of the legislation

The current regulations require compliance with the Directive by a range of organisations, individuals and co-owners of bathing water sites. This means that in some cases the process of identifying a controller of a bathing water site can be complex. In these instances there is a risk of non-compliance with the requirements of the Directive, and potential infraction proceedings, due to lack of clarity about where responsibilities under the Bathing Water Regulations 2008 lie.

The principle difference between these Regulations and the Bathing Water Regulations 2008 is that responsibility for the duties of the bathing water controller (including responsibility for public information at the bathing water) is removed from private owners in England and Wales and is placed on the relevant local authority.

Going forward, with the additional information requirement under the Directive being introduced from the start of the 2016 bathing season, there is a risk that private controllers may not understand their obligations or may not be willing or able to meet the costs of displaying this information, especially if further privately controlled bathing waters become designated. This could lead to the water quality information not being made publicly available at certain designated bathing waters and could create a potential public health risk for bathers using the sites. It could also put Wales at risk of not fully complying with the Directive.

In addition, signs provided by a range of different organisations will lack consistency, making it more difficult for bathers to understand and compare information between bathing waters. **The regulatory change proposed in the regulatory impact assessment (RIA) is for control¹ of bathing waters to be transferred to LAs** where they are not currently the controller, making the provision of bathing water quality information more consistent across Wales. LAs would not be expected to

¹ The bathing water controller, under the Bathing Water Regulations 2008, has “*control of the land immediately adjacent to the bathing water which is normally used to access the bathing water from the landward side and, where the bathing water is tidal, control of such land above the high water mark*” (Reg 2.1 (b)). The bathing water controller is responsible for providing the water quality information in the vicinity of designated bathing water sites.

assume any other management responsibilities at bathing waters over and above those set out in the Bathing Water Regulations 2008.

The objectives of the proposed regulatory change to bathing water controller responsibilities are:

- that all designated bathing waters display the water quality information required by the Directive as a minimum;
- that information is provided in such a way as to minimise costs and the administrative burden for all bathing water controllers, especially those currently defined as 'private controllers' (including small businesses, charities and individuals);
- there is consistency in presentation of the water quality information;
- that public information about water quality is displayed at bathing water sites to enable individuals to make informed decisions on where and when to bathe
- that the Welsh Government complies fully with the Directive

These Regulations implement the Commission Implementing Decision 2011/321/EU of 27 May 2011, establishing, pursuant to the revised Bathing Water 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

These Regulations also contain a number of changes when compared to the Bathing Water Regulations 2008 to ensure that the Regulations properly reflect the wording of the Bathing Water Directive 2006/7/EC in response to a challenge from the Commission on the transposition of that Directive .

5. Consultation

Details of the consultation are included in the Regulatory Impact Assessment.

PART 2 – REGULATORY IMPACT ASSESSMENT

Policy Options under Consideration

1. This RIA compares the proposed regulatory change option with the counterfactual 'do nothing' option, such that two options are presented in this RIA:
 - **Option 1** – 'Do nothing' baseline (counterfactual). Involves no change to current position, i.e. all responsibility rests with the current bathing water controllers, be they private or LAs, as per the current regulations.
 - **Option 2** – Regulatory change to transfer bathing water controller responsibility to LAs, requiring them to provide information at all designated bathing waters (including those that are privately controlled) in Wales.
2. The baseline number of designated bathing waters in Wales is 100 - the current (in August 2012) 90 that are the responsibility of LAs and the current 10 that are the responsibility of private controllers. It is assumed that, going forward, 10 new bathing waters will be designated each year.
3. The preferred option is Option 2, to introduce regulatory change that transfers bathing water controller responsibility from private owners to LAs. This is because the Welsh Government feels there is a risk of the required information not being provided at a number of privately controlled bathing waters, owing either to the cost and burden to small businesses and/or the willingness of private controllers to provide the information. It is important that the information requirements are adhered to in order to fully comply with the requirements of the Directive.
4. It is recommended that Option 2 is taken as the Welsh Government needs to take steps to ensure that the required information on water quality is provided at all bathing waters in Wales, both to enable bathers to make an informed decision about where and when to bathe and to comply with the Bathing Water Directive. Not providing this information would leave the public unaware of any potential problems with bathing water quality, which may pose a public health risk. In addition, it would mean that Wales would not be able to report full compliance with the signage elements of the Directive to the European Commission.
5. The signage requirements impose a duty of action and an associated cost on those who privately control designated bathing waters. These private owners may find it difficult and/or costly or be unwilling to provide the water quality information required by the Directive in the future – particularly once the additional signage requirements come into effect from the start of the 2016 bathing season. The burden on an individual controller of understanding and meeting the requirements of the Bathing Water Regulations 2008 (in order to procure and provide

appropriate signage at a single site) is greater than for an LA which is likely to have multiple sites and can benefit from 'economies of scale'.

6. It has been identified that in some circumstances there is a lack of clarity as to where controller responsibility rests, especially where bathing water sites are in co-ownership. The combination of this lack of clarity and the expected increase in requests for designation introduces a current and potentially growing risk of some private bathing water controllers failing to meet the requirements of providing public information on water quality at these sites.
7. The objectives of the proposed regulatory change, Option 2, are:
 - that all designated bathing waters display the water quality information required by the Bathing Waters Directive as a minimum;
 - that information is provided in such a way as to minimise costs and the administrative burden for all bathing water controllers, especially those currently defined as 'private controllers' (including small businesses, charities and individuals);
 - there is consistency in presentation of the water quality information;
 - that public information about water quality is displayed at bathing water sites to enable individuals to make informed decisions on where and when to bathe.

Costs and Benefits of each Option

Option 1 – 'Do Nothing'

8. Costs arising under the existing baseline fall mainly to local authorities ("LAs") and private controllers of designated bathing waters. The Welsh Government has already made funding available to LAs and private controllers with the intention of meeting the one-off costs of the water quality information requirements under the Bathing Water Regulations 2008 that came into force on 24 March 2012. It is thus assumed that all bathing water controllers have, or will have, claimed the necessary amount needed to meet their current signage obligations.
9. The main one-off cost to bathing water controllers under the 'do nothing' option is linked to the requirement to update their signs accordingly to meet the additional information obligations set out in the Directive, which will need to be in place from the start of the 2016 bathing season. It is assumed that, based on the Welsh Government recommendation made in 2011, all existing designated bathing water controllers will have taken these future changes into account and allowed for a moveable panel or sticker on their current signs in order to meet these additional information requirements. It is thus anticipated that the costs of meeting these requirements will be minimal.
10. However, where the advice from the Welsh Government has not been heeded, it is estimated that the one-off cost of producing a whole new sign to display all the

required information in 2016 could be up to £450² (current prices) for each designated bathing water site. As a maximum, if all the current 100 designated bathing water sites require new signs in 2016, along with the potential 10 new designations we estimate to have been made in each year between 2012 and 2015, the total one-off cost in 2016 could be up to £63,000 (140 x £450). These costs would fall to the relevant bathing water controllers under the ‘do nothing’ option (up to £6,300 to private controllers and up to £56,700 to LAs). However, it is assumed that a majority of controllers will have accounted for the known future additional signage requirements for 2016 and, as such, this estimated total cost is unlikely to be fully realised.

11. Potential recurring costs could arise for bathing water controllers under the ‘do nothing’ option, for instance when changes to signage is needed (e.g. maintenance or additional upgrading), although these are also expected to be minimal.
12. There is also a high potential cost associated with the ‘do nothing’ option if the bathing water quality information requirements under the Directive are not met. The potential difficulties associated with private controllers meeting their information obligations means that there is a potential risk of infraction. Therefore the ‘do nothing’ option is not preferable.

Option 2 – ‘Regulatory Change’

13. Additional costs (relative to the baseline) arising under the proposed regulatory change (option 2) are expected to be minimal. Costs arising for private controllers under the ‘do nothing’ option will simply be transferred to LAs under option 2. LAs will be the group mainly affected by any additional costs arising from the proposed changes, with very minimal potential costs of enforcement arising for the Welsh Government.

Costs to Local Authorities

14. Since only 10 of the 100 currently designated bathing waters in Wales are privately owned, with approximately 10 new designations expected per annum, the proposed regulatory change is expected to have a minimal impact on LAs. Table 1 sets out the LAs which would be impacted by the proposals, in gaining additional controller responsibilities for currently designated bathing waters. Since all of the LAs shown in Table 1 already hold controller responsibilities, the additional costs arising under option 2 are expected to be minimal.

Table 1 – Number of bathing waters to be transferred to LA control

Local Authority	Number of bathing waters they would gain controller responsibility for
Pembrokeshire County Council	3

² This figure is based on an estimate provided in Defra’s Impact Assessment of amendments to the definition of bathing water controller. We have added £60 to Defra’s £390 per bathing water estimate, to account for additional bilingual obligations in Wales.

Bridgend County Borough Council	2
Isle of Anglesey County Council	1
Vale of Glamorgan County Council	1
City and County of Swansea	2
Carmarthen County Council	1

15. This RIA highlights that relatively small costs are involved with the proposed regulatory change and hence a 'light touch' approach to the analysis has been adopted.
16. Through the transfer of control of designated bathing waters, LAs will incur additional one-off costs when new privately-owned bathing waters are designated, through having to ensure water quality information is displayed within the vicinity. Under the 'do nothing' option this cost would fall to the private controller of the bathing water, so this is essentially a transfer of cost from one party to the other.
17. Table 2 shows the number of current and estimated future bathing water designations by type of controller. There are currently only 10 privately controlled designated bathing waters and it is estimated that only one privately controlled new designation will be made per annum, so the costs that will be transferred to LAs under option 2 are expected to be relatively minor. In terms of new designations, for example, LAs will pick up the additional annual cost of signage for the one new privately owned designation (£450), and the potential 2016 signage costs of the 10 privately owned current designations (£4,500).
18. Table 2 also suggests that there will not be any overall additional information provision costs arising under option 2 compared to the baseline, since signage costs will simply be transferred from private owners to LAs as controllers of designated bathing waters. The total signage costs are upper estimates based on *all* designated bathing waters requiring new water quality information signs in 2016 to fulfil the additional requirements of the Directive. In reality, the total cost is likely to be much lower, although the overall outcomes will be the same (i.e. the cost impact of the regulatory change is expected to be neutral).

Table 2 – Current and New Bathing Water Designations and Signage Costs by Controller (2012 prices)

	Current designations in 2012 (signage costs incurred in 2016)	New designations per annum (2012-2015)
Option 1		
Privately Controlled (number)	10	1
LA Controlled (number)	90	9
Total Signage Costs – Private	£4,500	£450
Total Signage Costs – LA	£40,500	£4050
Total signage costs by 2016	£45,000	£18,000

Option 2		
Privately Controlled (number)	0	0
LA Controlled (number)	100	10
Total Signage Costs – Private	0	0
Total Signage Costs – LA	£45,000	£4,500
Total signage costs by 2016	£45,000	£18,000

Note: Total signage costs for current designations (both options) are upper estimates and are based on all current bathing water designations requiring new signage to meet the 2016 information requirement (i.e. 100 designated bathing waters x £450 signage cost).

19. However, the overall cost to LAs providing the required water quality information instead could in fact be relatively lower than the cost to private controllers under the 'do nothing' option, owing to the fact that many LAs hold controller responsibilities already, are likely to have multiple sites and can benefit from potential economies of scale. It is therefore anticipated that the additional costs to LAs associated with option 2 will be minor, and indeed relatively smaller than the costs arising for private owners under the 'do nothing' option, leading to a benefit under option 2. This assumption is supported by the fact that many LAs have not claimed under offer of funding made available by the Welsh Government in 2011, suggesting that they are able to absorb the costs of the water quality information requirements fairly easily.

Benefits to Private Owners

20. Existing private owners of designated bathing waters are expected to benefit in monetary terms from the changes under option 2 since they will no longer have to incur future costs arising from the information requirements set out under the Directive. However, it is anticipated that a majority of existing private controllers would have accounted for the changes due in 2016 when producing their existing signage and perhaps would have made use of the funding available from the Welsh Government in 2011. Hence, avoided costs in 2016 for private owners of existing designated bathing waters are estimated to be minimal.

21. Private owners of new bathing waters designated between 2012 and 2015 will also benefit under Option 2 from the avoided cost of providing the required water quality information, since this responsibility will instead fall to LAs. However, a majority of new bathing water designations are currently controlled by LAs; private owners are not always aware of the designation process or find it overly burdensome. Since 10% of currently designated bathing waters are privately controlled³ it is assumed that, as a maximum, 10% of new designations between 2012 and 2015 will also be privately controlled (i.e. one out of the ten estimated new designations per annum). It is estimated that signage to display the required bathing water quality information costs around £450 per designated bathing water site, so the potential cost saving to private controllers of newly designated bathing waters is £450 per annum between 2012 and 2015.

³ In 2012, 10% of the existing designated bathing waters are privately controlled (10 out of the 100) and 90% are controlled by LAs.

22. Private controllers of designated bathing waters will also benefit from no longer having to make themselves aware of the water quality information obligations or having to seek specialist advice from Natural Resources Wales on the requirements. It is anticipated that time and cost savings will arise as a result, although it has not been possible to quantify these for the purpose of this RIA due to lack of available evidence at this stage.

Benefits to the Public

23. Potential public health benefits could also be realised by the public if bathing water quality information is displayed at newly designated bathing sites, since bathers will be more informed about where and when to bathe. Public health benefits that are additional to the baseline are only likely to arise where water quality information is not currently available, or would not have been available under the 'do nothing' option. Option 2 will therefore only generate a potential public health benefit if it leads to water quality information being displayed where it previously was not, or if better quality information is provided.
24. The public will also benefit from the consistency of signage across designated bathing water sites in Wales under Option 2, potentially making the water quality information more accessible and easier to understand. This in itself could also lead to a potential public health benefit if bathers are able to make better informed decisions about where and when to bathe.

Overall Assessment of Option 2

25. Additional costs relative to the baseline will arise for LAs under option 2 with the transfer of control of designated bathing waters. Since the cost of the water quality information requirements will simply be transferred from private controllers to LAs, it is anticipated that the overall cost impact of option 2 will be neutral. However, the transfer of cost to LAs under option 2 could in fact result in a net benefit since it is anticipated that LAs may be able to fulfil the water quality information requirements at a relatively lower cost than private controllers.
26. Additional benefits relative to the baseline are likely to arise to the public (bathers) from having more consistency of signage across Wales and from having water quality information displayed at newly designated bathing sites. Private owners will also benefit in monetary terms from no longer having to fulfil costly water quality information requirements.
27. Perhaps the most significant benefit arising under option 2 is the expected increase in compliance with the Bathing Water Directive as a result of bathing water controller responsibilities being transferred to LAs. Option 2 is likely to substantially reduce the level of non-compliance with the Directive and hence to reduce the risk of infraction. Hence, option 2 is the preferred option and it is recommended that bathing water controller responsibilities are transferred to LAs in order to meet the objectives of the policy.

Uncertainty in New Designations

28. The main uncertainty associated with the economic assessment of the proposed regulatory option is the number of new bathing water designations estimated to arise each year. The estimated number of new designations is based on the 40 actual applications received by the Welsh Government in the last two years (as of August 2012).
29. 19 of the 40 applications received demonstrated the designation requirements of the Directive. Hence it is assumed, for the purpose of analysis, that around 10 new designations are likely to arise in each year between 2012 and 2015. However, there is some uncertainty associated with this estimate, to the extent that the number of designations could in fact be higher (or lower) in any given year. Any increase from the estimated 10 new designations per annum, however, is likely to be marginal and is unlikely to have any substantial impact on the overall costs of option 2.

Specific Impact Assessments

Small Firms Impact Test

30. Under the 'do nothing' option, small businesses/private controllers have to fulfil the water quality information requirements as set out in the Bathing Water Directive. Option 2 will reduce this administrative and cost burden on small businesses since it will transfer bathing water controller responsibilities to LAs.
31. Option 2 will also reduce the risk of non-compliance with the Directive since many small firms are currently unaware of their responsibilities under the Bathing Water Regulations 2008.

Health and Wellbeing

32. Option 2 is anticipated to increase the level of compliance with the water quality information requirements set out in the Directive, to the extent that their could be public health benefits arising as a result of improved water quality information being displayed. Along with the improved consistency of signage across Wales, this will make it easier for the public to decide where and when to bathe.

Welsh Language

33. The assessment of the preferred option (option 2) in this Impact Assessment accounts for the estimated costs of producing bilingual water quality information signs. Since controller responsibilities will be transferred to LAs under option 2, it is not anticipated that there will be any additional Welsh language impacts arising under the preferred option.

Summary of Specific Impact Tests

Test	Impact
Statutory Equality Duties	None
Economic Impacts - competition	None
Economic Impacts – Small firms	Yes
Environmental Impacts - GHG	None
Environmental Impacts – Wider environmental issues	None
Social Impacts – Health and well-being	Yes
Social Impacts – Human rights	None
Social Impacts – Justice system	None
Social Impacts – Rural proofing	None
Sustainable development	None
Welsh Language	Minor

Consultation

34. The Welsh Government undertook a targeted consultation (15 August to 26 September 2012) on proposed changes to the Bathing Water Regulations 2008.
35. The consultation letter was sent to all local authorities, private organisations and individuals defined as a bathing water controller under the Bathing Water Regulations 2008, and to local authorities who would be brought into the definition by the proposed amendments.
36. The aim of the consultation was to seek views on transferring the responsibilities for providing information about water quality and potential sources of pollution at designated bathing waters from private bathing water owners to local authorities in Wales.
37. Five responses were received, of those responses four supported the proposal to move bathing water controllers' responsibility under the Directive at privately owned bathing waters to local authorities, with one response objecting to the proposal.
38. The majority of responses who supported transferring responsibility to local authorities (option 2) identified that this proposal would ensure consistency of practices across designated bathing waters and would assist private beach controllers. It was also stated that option 2 would ensure that appropriate signage and current and relevant information relating to water quality is being appropriately displayed.
39. The proposed change to the regulations would mean that local authorities would be responsible for ensuring that the required information is present and correct at all designated bathing waters in Wales. It does not mean that local authorities would be expected to take on any additional responsibilities at privately owned bathing waters, other than those specified in the Directive.

40. Local authorities will have no powers of enforcement as a consequence of these changes. Where non-compliance with the Directive is identified, power of enforcement will remain with the Welsh Ministers.

Post Implementation Review

41. Natural Resources Wales are responsible for monitoring and enforcement carried out under the Bathing Water Regulations 2013. They report to the Welsh Government annually. These regulations will be reviewed five years after they are laid.



Ein cyf / Our ref: LF/FM/0733/13

David Melding AC
Cadeirydd
Y Pwyllgor Materion Cyfansoddiadol a
Deddfwriaethol
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
CF99 1NA

5ed Awst 2013

Annwyl David

Ysgrifennaf atoch mewn perthynas â'ch llythyr dyddiedig 2 Gorffennaf 2013 ynghylch y trefniadau craffu ar gyfer gorchmynion sy'n cychwyn Deddfau Cynulliad.

Mae'n bwysig bod hyblygrwydd yn y broses o benderfynu pa bryd y mae Deddfau'n dod i rym, ac fel yr ydych yn ei gydnabod, mater gweinyddol i'r Llywodraeth benderfynu arno yw hwn fel arfer.

Mewn rhai amgylchiadau gall cychwyn Deddfau fod yn dechnegol gymhleth, yn enwedig lle mae angen trosi o system gyfredol i un arall. Dyna pam y mae Biliau yn aml iawn yn galluogi gorchmynion cychwyn i wneud darpariaeth sydd (er enghraifft) yn drosiannol neu'n atodol. Mewn achosion o'r fath rhaid i'r ddarpariaeth sy'n drosiannol neu'n atodol fod â chysylltiad â'r cychwyn ei hun, a dylai felly fod yn gul ei chwmpas.

Ond o ystyried eich pryderon rwyf wedi gofyn i swyddogion edrych ar gynnwys y gorchmynion cychwyn dros gyfnod yr haf a byddaf yn ysgrifennu atoch eto ar ôl y toriad.

Yn gywir

CARWYN JONES

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Constitutional and Legislative Affairs Committee

Cynulliad
Cenedlaethol
Cymru
National
Assembly for
Wales



Y Gwir Anrhydeddus Carwyn Jones AC
Y Prif Weinidog
Llywodraeth Cymru
Llawr 5
Tŷ Hywel
Bae Caerdydd
CF99 1NA

2 July 2013

Annwyl Brif Weinidog

Gorchmynion Cychwyn

Mae'n thema gyson sy'n codi yn ein gwaith o graffu ar bwerau dirprwyedig i wneud is-ddeddfwriaeth, y dylai'r Cynulliad graffu i raddau priodol ar ddeddfwriaeth o'r fath.

Ystyriodd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol ddau Orchymyn Cychwyn yn ei gyfarfod ar 24 Mehefin 2013, sef *Gorchymyn Deddf Tai ac Adfywio 2008 (Cychwyn Rhif 3 a Darpariaethau Trosiannol, Dros Dro ac Arbed) (Cymru) 2013* a *Gorchymyn Deddf Archwilio Cyhoeddus (Cymru) 2013 (Cychwyn, Diwygiadau Canlyniadol a Darpariaethau Trosiannol ac Arbed) (Cymru) 2013*.

Nid yw'n arferol i ni ystyried gorchmynion cychwyn gan nad ydynt yn destun unrhyw weithdrefn.

Fodd bynnag, yn ddiweddar, fel rhan o'n gwaith craffu ar ddarpariaethau cychwyn mewn Biliau, rydym wedi sylwi bod rhai Biliau yn caniatáu i ddefnyddio gorchymyn cychwyn i gynnwys, er enghraifft, darpariaethau cysylltiedig, atodol, canlyniadol, darfodol neu drosiannol. Rydym yn ystyried na ddylai darpariaethau o'r fath gael eu cynnwys o fewn gorchmynion cychwyn, i sicrhau eu bod yn ddarostyngedig i lefel briodol o graffu.

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Rydym wedi gwneud nifer o argymhellion yn ein hadroddiadau ar y gwaith o graffu ar Ffiliau i ddelio â'r mater hwn a byddwn yn parhau i wneud hynny.

Am y rhesymau hyn rydym wedi ystyried y ddau orchymyn uchod, gan eu bod yn fwy na darpariaethau cychwyn yn unig.

O ganlyniad i'n hystyriaeth o'r gorchmynion hyn, gofynnodd y Pwyllgor i mi ysgrifennu atoch i ofyn am eich barn ar ddefnyddio gorchmynion cychwyn i gynnwys darpariaethau nad ydynt yn rhai cychwyn.

Byddwn yn ddiolchgar pe baech yn ystyried y pwyntiau hyn ac yn anfon eich ymateb i'r Pwyllgor maes o law.

Yn gywir

A handwritten signature in black ink that reads "David Melding". The signature is written in a cursive style with a long, sweeping tail on the final letter.

David Melding AC
Cadeirydd



Eich cyf/Your ref
Ein cyf/Our ref

David Melding AC
Cadeirydd
Y Pwyllgor Materion
Cyfansoddiadol a Deddfwriaethol
Cynulliad Cenedlaethol Cymru
Bae Caerdydd

15 Gorffennaf 2013

Annwyl David

Memorandwm Cydsyniad Deddfwriaethol - Y Bil Ymddygiad Gwrthgymdeithasol, Trosedd a Phlisma: darpariaethau mewn perthynas â chŵn

Diolch yn fawr am eich llythyr dyddiedig 2 Gorffennaf 2013 yn gofyn am ragor o wybodaeth yn dilyn fy natganiad ysgrifenedig ar 2 Mai ynghylch atal y gwaith ar Fil Rheoli Cŵn (Cymru) am y tro a'ch trafodaethau fel Pwyllgor yn dilyn hynny ar 10 a 24 Mehefin.

Rwyf wedi nodi fy atebion i'ch cwestiynau isod:

(i) Mae'n bosibl bod rhai o'r amcanion polisi yr oedd Llywodraeth Cymru'n ceisio eu sicrhau drwy'r Bil yn medru cael eu cyflawni gan Fil y DU. Fodd bynnag, gan fod y ddau Fil yn canolbwyntio ar bethau gwahanol, gallai fod yn anodd i awdurdodau lleol ymyrryd yn gynnar dan Fil y DU i atal ci rhag dod i fod yn beryglus, sy'n fater yr oedd Bil Cymru'n gobeithio mynd i'r afael ag ef.

A wnewch chi egluro pam fod arddull Bil y DU yn fwy priodol yn eich barn chi?

Fel y dywedais yn fy Natganiad Ysgrifenedig ar 2 Mai, mae Llywodraeth Cymru wedi ymrwmo i sicrhau ein bod yn delio'n effeithiol â chŵn sy'n beryglus ac allan o reolaeth. Rydym wedi ymrwmo i greu fframwaith statudol a fyddai'n ei gwneud yn anghyfreithlon i gŵn fod allan o reolaeth ac yn beryglus ar safle preifat. Rydym hefyd wedi ymrwmo i ddiogelu cŵn cymorth, er enghraifft cŵn tywys a chŵn clywed, yn ogystal â threfn statudol i ddiogelu lles cŵn a hyfforddi cŵn.

Rwyf wedi ystyried yn ofalus sut y dylem roi'r amcanion hyn ar waith i gael y canlyniadau gorau er mwyn amddiffyn ein plant, teuluoedd a chymunedau'n well. Rwyf wedi ymrwmo hefyd i newid diwylliant yn y tymor hir. Ni all deddfwriaeth ar ei phen ei hun wneud hynny ond bydd yn mynd at wraidd y broblem trwy annog perchenogion cŵn i fod yn berchenogion cyfrifol.

Mae'n trafodaethau gydag awdurdodau gorfodi a sefydliadau trydydd sector yng Nghymru wedi dangos y byddai'n llawer gwell gan y rhai sy'n gorfodi ymyrryd yn gynnar ac atal digwyddiadau angheuol a/neu unrhyw berygl i les y ci. Hefyd mae'r

diwygiadau i Ddeddf Cŵn Peryglus 1991, a osodwyd yn ein Bil drafft, bellach yn symud ymlaen ym Mil Ymddygiad Gwrthgymdeithasol, Troseddau a Phlisma drafft y Swyddfa Gartref.

Rwyf wedi edrych ar ddarpariaethau'r Bil Ymddygiad Gwrthgymdeithasol drafft a gyhoeddwyd gan y Swyddfa Gartref ac, er fy mod yn derbyn nifer o'r sylwadau sy'n beirniadu'r bil drafft, rwy'n credu fodd bynnag y gall fod yn ffordd ddefnyddiol o gyflawni'n huchelgais. Mae'r Bil Ymddygiad Gwrthgymdeithasol, Trosedd a Phlisma bellach wedi'i gyflwyno i Senedd y DU, ac fe fyddaf yn parhau i weithio mewn partneriaeth gyda Llywodraeth y DU ar y mater hwn er mwyn sicrhau cysondeb wrth reoli cŵn ar draws Cymru a Lloegr (gan gofio bod cŵn a'u perchnogion yn teithio ar draws ffiniau). Byddaf hefyd yn parhau i bwysleisio pwysigrwydd:

- yr agweddau yn ymwneud â lles ar gyfer rheoli cŵn mewn ffordd briodol;
- cyfrifoldebau perchnogion cŵn;
- gwerth cynhyrchu canllawiau ar y materion hyn y gellid eu defnyddio yng Nghymru a Lloegr.

Rydym yn cydweithio'n agos gyda Llywodraeth y DU, ac yn cael ein sicrhau fod Bil y DU yn cael ei ddrafftio mewn ffordd sy'n golygu:

- y gellid, ac y dylid, defnyddio camau ataliol cynnar, o bosib drwy ddefnyddio Contract Ymddygiad Derbyniol, sy'n ffordd o annog yr unigolyn i gydnabod ei ymddygiad a'i effaith, gyda'r nod o'i atal yn gyflym.
- os nad yw'r ymddygiad yn peidio, mae modd cynyddu'r pwerau gorfodi. Y gweithwyr proffesiynol perthnasol sy'n penderfynu ar amseriad y cynnydd hwnnw (nid oes cyfyngiadau amser penodol os nad yw'r ymddygiad yn newid)

Drwy ganiatáu i weithwyr proffesiynol herio pob ymddygiad annerbyniol *ar unwaith* (gan gynnwys cŵn sydd allan o reolaeth), yn hytrach na mynd drwy broses ffurfiol y llysoedd, gellir gosod safonau clir o ymddygiad derbyniol er mwyn atgyfnerthu'r neges na fydd ymddygiad annerbyniol yn cael ei odfef.

(ii) Fedrwcch chi egluro pam na allai Bil Cymru gyflawni'ch amcanion polisi'n llawn, a pha bwerau penodol sydd heb fod ar gael i'r Cynulliad Cenedlaethol i alluogi'r ddeddfwriaeth hon i gael ei gwneud yng Nghymru?

Mae gan y Cynulliad Cenedlaethol y cymhwysedd deddfwriaethol angenrheidiol i barhau gyda'r polisi a amlinellwyd ar gyfer ein Bil Rheoli Cŵn (Cymru) arfaethedig.

Er y byddai ein Bil ni wedi llwyddo i gyflawni'r amcanion polisi, o ran gorfodaeth mae gan Fil y DU botensial ar gyfer darparu pwerau ehangach a mwy effeithiol i'r heddlu, cynghorau lleol a landlordiaid cymdeithasol sy'n gyfrifol am ddelio â pherchnogion cŵn anghyfrifol a materion rheoli cŵn.

Rwy'n hyderus ein bod yn cyfrannu at y gwaith o lunio cynnwys Bil drafft y DU gan ei fod bellach yn cynnwys y diwygiadau i'r Ddeddf Cŵn Peryglus yr oeddem yn eu ceisio.

Byddwn yn parhau i weithio gyda Llywodraeth y DU i sicrhau fod Bil y DU a'r canllawiau ategol yn bodloni ein gofynion, ond rwy'n cadw'r opsiwn o gyflwyno Bil i Gymru.

(iii) Rydych yn cyfeirio'n benodol at gael pwerau gwneud rheoliadau yn eich datganiad dyddiedig 2 Mai. Beth yw'r sefyllfa bresennol ynghylch cael y pwerau hyn, neu ydych chi bellach o'r farn nad ydynt yn angenrheidiol?

Fel y gwyddoch o bosib, mae trafodaethau'n parhau ynghylch hyn. O ran gweithredu darpariaethau'r Bil mewn perthynas â rheoli cŵn, y ffactor hanfodol yw y dylid datblygu canllawiau i awdurdodau lleol a'r heddlu, gyda chytundeb y Swyddfa Gartref, a fydd yn sicrhau bod ymyraethau mewn perthynas â rheoli cŵn yn digwydd fel y rhagwelwyd yn ein Bil drafft. Nid ydym yn gweld unrhyw reswm ar hyn o bryd pam na ddylai'r dyhead hwnnw gael ei gyflawni.

(iv) Ydych chi'n rhagweld y byddwch yn cyflwyno unrhyw ddeddfwriaeth benodol i Gymru mewn perthynas â rheoli cŵn yn y dyfodol agos?

Rwyf wedi atal y Bil Rheoli Cŵn dros dro, yn hytrach na thynnu'r cynigion yn ôl. Fodd bynnag, os nad yw Mesur y DU yn foddhaol, mae gen i'r opsiwn o'i ddatblygu ymhellach.

Rhan o'r ateb ar gyfer ystyried cŵn allan o reolaeth a pheryglus oedd ein Bil drafft. Mae ein Map Ffordd ar Les Cŵn wedi gosod nifer o opsiynau a champau sydd eisoes wedi'u cymryd. Mae gwahardd y defnydd o goleri electronig, er enghraifft, yn cael gwared ag effeithiau niweidiol posibl ar gyfer cŵn.

Rwyf hefyd yn bwriadu cyflwyno rheoliadau cadarn ac ymarferol ynghylch microsglodion ar gyfer cŵn yng Nghymru a gwella lles cŵn mewn safleoedd bridio trwyddedig.

Mae "Cod Ymarfer er Lles Cŵn" Llywodraeth Cymru yn ei gwneud yn glir bod cyfrifoldeb ar berchnogion cŵn i sicrhau bod cŵn yn:

- byw mewn amgylchedd addas;
- cael bwyd iach i'w fwyta;
- medru ymddwyn yn normal;
- cael cwmni priodol;
- cael eu hamddiffyn rhag poen, dioddef anafiadau ac afiechyd.

Bydd cydymffurfio â'r gofynion hyn yn help sylweddol i gadw rheolaeth dros gŵn.

Gobeithio bod yr ymatebion hyn yn ddefnyddiol i chi.



Alun Davies AC / AM

Y Gweinidog Cyfoeth Naturiol a Bwyd
Minister for Natural Resources and Food



Llywodraeth Cymru
Welsh Government

Lesley Griffiths AC / AM
Y Gweinidog Llywodraeth Leol a Busnes y Llywodraeth
Minister for Local Government and Government Business

Ein cyf/Our ref: LF/LG/0803/13

David Melding AM
Chair, Constitutional & Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

23 August 2013

Dear David

I have issued a technical consultation on the draft Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013. There will be a four week consultation period closing on 20 September 2013.

A link to this consultation and the draft regulations is attached for the Constitutional & Legislative Affairs Committee's information, to assist scrutiny of the finalised Regulations which I intend to lay in November 2013. My officials would be happy to provide a technical briefing on the draft Regulations and the proposed amendments.

I will ensure the Committee continue to be kept informed of progress in developing these Regulations, as well as sets of technical regulations necessary for the effective operation of the Council Tax Reduction Schemes which will also need to be amended for 2014-15.

Lesley Griffiths AC / AM
Y Gweinidog Llywodraeth Leol a Busnes y Llywodraeth
Minister for Local Government and Government Business

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Eitem 6.1

Yn rhinwedd paragraff(au) ix o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Eitem 6.2

Yn rhinwedd paragraff(au) ix o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Eitem 6.3

Yn rhinwedd paragraff(au) ix o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon