

**SECOND SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**  
**No. 4030 of 10 October, 2013**

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LEGAL NOTICE NO. 139 OF 2013.

**ENVIRONMENT ACT 2005**

**ENVIRONMENT (QUALITY OF BATHING WATER)  
(AMENDMENT) REGULATIONS 2013**

In exercise of the powers conferred upon it by section 18(c) of the Environment Act 2005, and for the purpose of further transposing into the law of Gibraltar 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 and implementing Commission Implementing Decision 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 prohibition or advice against bathing, the Government has made the following Regulations—

**Title and commencement.**

1. These Regulations may be cited as the Environment (Quality of Bathing Water) (Amendment) Regulations 2013 and come into operation on the day of publication.

**Amendment to regulations.**

2. The Environment (Quality of Bathing Water) Regulations 2009 (the principal regulations) are amended in accordance with the provisions of these Regulations.

**Amendment to regulation 2.**

3. In regulation 2 of the principal regulations—

- (a) in the definition of “coastal water” after the words “breadth of territorial waters” insert the words “is measured”;
- (b) after the definition of “inland water” insert the following definition—

““large number” in relation to bathers, means a number that the competent authority considers to be large having regard, in particular, to past trends or to any infrastructure or facilities provided, or other measures taken, to promote bathing;”;

- (c) after the definition “permanent advice against bathing” insert the following definition–

““permanent bathing prohibition” means a prohibition on bathing, in relation to at least one whole bathing season, under regulation 25;

- (d) for paragraphs (b) and (c) of the definition of “relevant procedures for short-term pollution” substitute the following paragraphs–

“(b) the establishment of surveillance and early warning systems and monitoring, with a view to preventing bathers’ exposure to the short-term pollution by means of a warning or where necessary, a bathing prohibition; and

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

- (e) for the definition “short-term pollution” substitute the following definition–

““short-term pollution” means microbiological contamination by intestinal enterococci or Escherichia coli, that has clearly identifiable causes, and where contamination to affect bathing water quality for more than approximately 72 hours after the bathing water is first affected would not normally be expected and in respect of which the competent authority has established procedures to predict and deal with such pollution;”.

**Amendment to regulation 3.**

4. For regulation 3(2)(b) of the principal regulations substitute the following paragraph–

“(b) a permanent bathing prohibition or permanent advice against bathing there has not been issued.”.

**Amendment to regulation 6.**

5. For regulation 6(1) of the principal regulations substitute the following subregulation–

“(1) The competent authority shall–

- (a) encourage public participation in the implementation of 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,

in particular in relation to the establishment, review and updating of lists of bathing waters.”.

**Amendment to regulation 9.**

6. In regulation 9 of the principal regulations–

- (a) in subregulation (1), after the words “the competent authority must” insert the word “regularly”;
- (b) after subregulation (4) insert the following subregulation–

“(5) The competent authority may include or attach any information to a bathing water profile if the competent authority considers it appropriate to do so.”.

**Substitution of regulation 11.**

7. Regulation 11 of the principal regulations is substituted by the following–

“11.(1) Subregulation (2) applies in relation to every bathing water in Gibraltar.

(2) Every person who controls bathing water, shall ensure that the following information about bathing water that he controls is actively disseminated and promptly made available to the public during the bathing season in an easily accessible place in the near vicinity of each bathing water—

- (a) the bathing water’s current classification in accordance with regulation 23, where such a classification has taken place and any bathing prohibition or advice against bathing as referred to in this Regulation by means of a clear and simple sign or the relevant symbol in Schedule 2;
- (b) a general description of the bathing water, in non-technical language, based on its bathing water profile;
- (c) in the case of bathing water subject to short term–pollution—
  - (i) notification that the bathing water is affected by short-term pollution;
  - (ii) an indication of the number of days for which advice against bathing was introduced there during the immediately preceding bathing season because of short-term pollution;
  - (iii) a warning whenever short-term pollution is predicted or present there;
- (d) information on the nature and expected duration of abnormal situations during such events; and
- (e) whenever bathing is prohibited or advised against, a notice advising the public and giving reasons;
- (f) whenever a permanent bathing prohibition or permanent advice against bathing is introduced, the

fact that the area in question is no longer a bathing water and the reasons for its declassification; and

- (g) an indication of the sources of more complete information in accordance with subregulation (5).
- (3) Every person who controls bathing water, shall ensure he uses appropriate media and technologies, including the Internet, to disseminate actively and promptly the information concerning bathing waters referred to in subregulation (2) and also the following information in several languages, where appropriate—
- (a) a list of bathing waters;
  - (b) the classification of each bathing water over the last 3 years and its bathing water profile, including the results of monitoring carried out in accordance with these Regulations since the last classification;
  - (c) in the case of bathing waters classified as being 'poor', information on the causes of pollution and measures taken with a view to preventing bathers' exposure to pollution and to tackle its causes as referred to in regulation 25(1); and
  - (d) in the case of bathing waters subject to short-term pollution, general information on—
    - (i) conditions likely to lead to short-term pollution,
    - (ii) the likelihood of such pollution and its likely duration,
    - (iii) the causes of the pollution and measures taken with a view to preventing bathers' exposure to pollution and to tackle its causes.
- (4) The list referred to in subregulation (3)(a) shall be available each year before the start of the bathing season.

- (5) The results of the monitoring referred to in subregulation (3)(b) shall be made available on the Internet upon completion of the analysis.
- (6) Wherever possible, the competent authority shall ensure that information provided to the public uses geo-referenced technology and is presented in a clear and coherent manner, in particular through the use of signs and symbols.”.

**Amendment to regulation 15.**

8. In regulation 15 of the principal regulations after the words “data for the bathing water” insert the words “and replace those with samples taken under this regulation”.

**Substitution of regulations 18 and 19.**

9. Regulations 18 and 19 of the principal regulations are substituted by the following—

“18.(1) Subject to subregulation (2), the competent authority shall use the following reference methods of analysis—

- (a) for intestinal enterococci, ISO 7899-1 or ISO 7899-2;  
and
- (b) for Escherichia coli, ISO 9308-3 or ISO 9308-1,

and shall adhere to the provisions in regulations 12(b), 16 and 17 when handling samples for analysis.

- (2) The competent authority may permit the use of other methods or rules other than those described in subregulation (1) if it can be demonstrated that the results obtained are equivalent to those obtained
- (3) Where subregulation (2) is applied so as to permit the use of such equivalent methods or rules, the competent authority shall provide the Commission with all relevant information about the methods or rules used and their equivalence.

19.(1) Where any bathing water profile indicates a potential for cyanobacterial proliferation, the competent authority shall

establish a monitoring programme at the bathing water at the frequency necessary to allow timely identification of the risks.

- (2) Where cyanobacterial proliferation occurs and a health risk has been identified or presumed, the competent authority shall immediately undertake adequate management measures to be put in place in accordance with regulation 24, including providing information to the public.”.

**Amendment to regulation 20.**

10. At the end of regulation 20 insert the following words “, including, if necessary, providing information to the public”.

**Substitution of regulation 21.**

11. Regulation 21 of the principal regulations is substituted by–

“21. Where any bathing water profile indicates a tendency for proliferation of macro-algae, marine phytoplankton or both, the competent authority shall undertake an investigation at the bathing water to determine their acceptability and health risks and to allow for adequate management measures to be put in place in accordance with regulation 24, including providing information to the public.”.

**Amendment to regulation 22.**

12. Regulation 22 of the principal regulations is amended–

- (a) in paragraph (a) delete the word “and”;
- (b) in paragraph (b) for “.” substitute “; and”;
- (c) after paragraph (b) insert the following paragraph–

“(c) follow the procedure set out in paragraph 3 of Schedule 1.”.

**Amendment to regulation 23.**

13. In regulation 23(2) of the principal regulations after the words “waters in Gibraltar are classified” insert the words “, at least,”.



**Substitution of regulation 25.**

14. For regulation 25 of the principal regulations substitute the following—

“25.(1) Notwithstanding the requirements of regulation 23(2), bathing waters may be temporarily classified as “poor” and still remain in compliance with these Regulations if the following conditions are satisfied—

- (a) in respect of each bathing water classified as “poor” the competent authority shall during the bathing season following this classification—
  - (i) take, or cause to be taken, adequate management measures, including a bathing prohibition or advice against bathing with a view to preventing bathers’ exposure to pollution;
  - (ii) notify the controller of the bathing water, if the competent authority itself does not exercise control over the bathing water; and
  - (iii) identify the causes and reasons why the bathing water failed to achieve a classification of “sufficient”;
  - (iv) take adequate measures to prevent, reduce or eliminate the cause of pollution;
- (b) the controller shall—
  - (i) take such management measures there as he considers adequate with a view to preventing bathers’ exposure to pollution; and
  - (ii) in accordance with regulation 11, alert the public by a clear and simple warning sign and informing them of the causes of the pollution and the measures taken, on the basis of the bathing water profile.

- (2) Where the competent authority has classified bathing water as “poor” under regulation 23 for five consecutive years the controller shall introduce a permanent bathing prohibition or issue permanent advice against bathing there, and the competent authority may introduce the prohibition or issue the advice where it considers that it would be unfeasible or disproportionately expensive for that bathing water to achieve a classification of “sufficient”.
- (3) The competent authority shall notify the controller of the bathing water, if the competent authority itself does not exercise control over the bathing water.
- (4) The controller shall introduce permanent bathing prohibition or permanent advice against bathing there by means of public information under regulation 11.”.

**Amendment to regulation 28.**

15. Regulation 28 of the principal regulations is amended by inserting the following subregulation after subregulation (2)–

- “(3) Where the monitoring calendar has been suspended this shall be reported to the European Commission, giving reasons for the suspension, at the same time as the next annual report is made under subregulation (1).”.

**Amendment to Schedule.**

16. The Schedule to the principal regulations is renumbered “Schedule 1”.

**Insertion of Schedule 2.**

17. After Schedule 1 to the principal regulations insert the following schedule–

**“SCHEDULE 2**

**SYMBOLS**

Symbols for informing on bathing prohibition or advice against bathing–



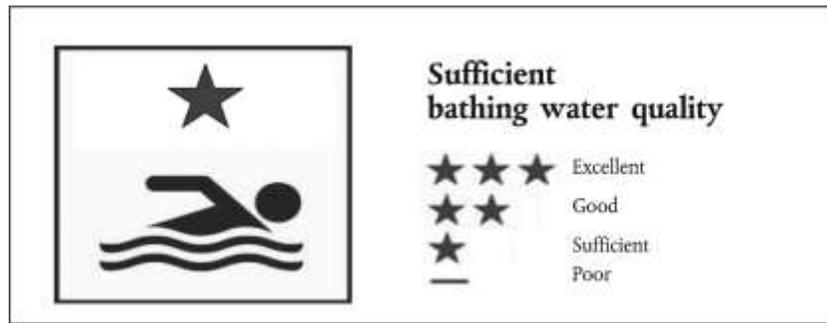
**Advice  
against bathing**



**Bathing prohibited**

Symbols for informing on bathing water classification—





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Dated 10th October, 2013.

DR J CORTES,  
Minister with responsibility for Environment.  
For the Government.

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**EXPLANATORY MEMORANDUM**

These Regulations further transpose 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 and also implement Commission Implementing Decision 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 prohibition or advice against bathing.

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**Printed by the Gibraltar Chronicle Printing Limited  
Unit 3, New Harbours  
Government Printers for Gibraltar,  
Copies may be purchased at 6, Convent Place, Price £2.15.**