EXPLANATORY MEMORANDUM TO

THE BATHING WATER (AMENDMENT) (ENGLAND) REGULATIONS 2016

2016 No. 600

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends Part 1 of Schedule 2 to the Bathing Water Regulations 2013 ("the Regulations") to reflect changes to the list of designated bathing waters in England.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The Bathing Water Regulations 2013 ("the principal Regulations") help protect public health and the environment from faecal pollution at bathing waters. In order to give effect to this protection, waters that are used by a large number of bathers are designated under these Regulations. This amendment reflects changes to the designated waters in England since 2014.

5. Extent and Territorial Application

5.1 This instrument extends to England and Wales.

5.2 This instrument applies to England only.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The Secretary of State must designate as bathing waters those surface waters in England where a large number of people are expected to bathe, and this is reviewed

annually. The list of bathing waters is set out in Part 1 of Schedule 2 to the principal Regulations. This instrument amends that list.

7.2 There are two newly identified waters since the last amendment to the Regulations. These are West Runton and Windermere Rayrigg Meadow.

7.3 Four bathing waters are removed from the list. These are: Newhaven; Lyme Regis Church Cliff Beach; Rock; Staithes.

7.4 Each change has been consulted on individually and the accurate list for each year published in the Bathing Waters collection on gov.uk in accordance with regulation 3 of the principal Regulations. Guidance on how these decisions are made is available on the gov.uk website.

7.5 The names of three bathing waters already listed in Part of Schedule 2 have changed and have therefore been amended in the new Part 1 at the request of the relevant local authorities. These are Burnham Jetty, Hastings and Mounts Bay Heliport which have been amended to Burnham Jetty North, Hastings Pelham Beach and Mounts Bay Long Rock respectively

Consolidation

7.6 This instrument makes a small number of changes to the list of bathing waters in a Schedule to the principal Regulations, therefore it is not thought necessary to consolidate the principal Regulations at this time. The up to date list is available as mentioned in paragraph 7.4 above.

8. Consultation outcome

8.1 Individual national consultations were carried out on each of the designations and de-designations of bathing waters. Each consultation was held over a six week period and was sent to a standard list of consultees which includes environmental NGOs, swimming organisations, the relevant water company, the National Farmers Union, Country Land and Business Association and tourism and beach management organisations. They were also available online for public consultation. The full outcome of each consultation can be found on the gov.uk website. The relevant local councils also held consultations on the designations of Windermere Rayrigg Meadow and West Runton, and on the de-designation of Staithes.

8.2 Four responses were received to the consultation on designating West Runton. Two supported designation and one was opposed to the proposal. Anglian Water commented on potential pollution sources but did not express a view on designation.

8.3 Seven responses were received to the consultation on designating Windermere Rayrigg Meadow, all in support of designation.

8.4 94 responses were received to the consultation on de-designating Lyme Regis Church Cliff Beach. 87 opposed de-designation and seven supported the proposal. 13 of the responses opposing de-designation were associated with a campaign opposed in principle to de-designation. 32 commented on water quality, which is not taken into account in decision on designation or de-designation of bathing waters. No evidence was provided to suggest that usage for bathing is higher than was shown in a survey carried out at the beach in 2014 and we have therefore proceeded with de-designation because of low usage for bathing. The consultation document and a summary of the outcome can be seen at: htpps://www.gov.uk/government/consultations/bathing-

waters-removing-lyme-regis-church-cliff-beach-from-the-list-of/designated-bathing-waters

8.5 108 responses were received to the consultation on de-designating Newhaven. The bathing water at Newhaven is within the harbour. Access has been closed since 2008 and bathing is prohibited by the harbour byelaws. 102 consultees opposed de-designation, of which 15 were associated with a campaign opposed in principle to de-designation. Three were in favour of de-designation. Two suggested moving the sampling point or designating a different beach as a bathing water. Southern Water commented on its assets in the area but did not express a view on de-designation. We have proceeded with de-designation because the criterion of a large number of bathers is not met, not least because of a harbour bye laws prohibiting bathing. The consultation document and a summary of the outcome can be seen at: https://www.gov.uk/government/consultations/bathing-waters-removing-newhaven-from-the-list-of-designated-bathing-waters

8.6 21 responses were received to the consultation on de-designating Rock. Fourteen opposed de-designation and 6 supported the proposal. South West Water commented on its assets in the area but did not express a view on de-designation. No evidence was provided to suggest that usage for bathing is higher than was shown in a survey carried out at the beach in 2014 and we have therefore proceeded with de-designation because of low usage for bathing and safety concerns about the risks of bathing at an area predominantly used for boating. The consultation document and a summary of the outcome can be seen at: https://www.gov.uk/government/consultations/bathing-waters-removing-rock-from-the-list-of-designated-bathing-waters

8.7 287 responses were received to the consultation on de-designating Staithes. 282 were opposed to de-designation and five were in favour of the proposal. 80 of the responses were associated with a campaign opposed in principle to de-designation. 119 commented on water quality and its impact on public health and the environment, however water quality is not taken into account in decisions on designation or de-designation of bathing waters. No further evidence was provided to suggest that usage for bathing is higher than was shown in a survey carried out at the beach in 2013 and we have therefore proceeded with de-designation because of low usage for bathing. The consultation document and a summary of the outcome: https://www.gov.uk/consultations/bathing-waters-removing-staithes-from-the-list-of-designated-bathing-waters

9. Guidance

9.1 Guidance on bathing water issues including designation and de-designation of bathing waters is available at https://www.gov.uk/government/collections/bathing-waters

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is low as the public information requirement on local councils is funded by Defra.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The list of designated bathing waters is reviewed annually. The principal Regulations are due to be reviewed by the end of July 2018 in accordance with regulation 20 of the principal Regulations.

13. Contact

13.1 Edmund Beard at the Department for Environment, Food and Rural Affairs Telephone: 020 8026 3071 or email: bathingwater@defra.gsi.gov.uk can answer any queries regarding the instrument.