

Bathing Waters

**Consultation on determining the 2020
bathing season in light of the on-going
COVID-19 pandemic**

May 2020



Scottish Government
Riaghaltas na h-Alba
gov.scot

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Background

The aim of the EU Bathing Waters Directive is to protect public health, by monitoring water quality at locations popular with large numbers of bathers; providing public information on that water quality; and taking steps to improve water quality where the necessary standards are not met. The Directive is transposed in Scotland by the Bathing Waters (Scotland) Regulations 2008, which prescribe that:

- Scottish Ministers must establish and keep under annual review a list of designated bathing waters;
- Scottish Ministers must designate an area as a bathing water if they **expect a large number of people to bathe there**, having regard to past trends and infrastructure or facilities provided, or other measures taken, to promote bathing;
- Ministers must determine for each bathing water **the period during which large number of bathers are expected there** as the bathing season.

In order to meet these legal requirements, in normal years, Scotland's most popular beaches (86 in 2019) are designated in May by Scottish Ministers, along with the period of the bathing water season. This list of bathing waters generally remains unchanged from year to year and the bathing season in Scotland is normally determined by Scottish Ministers as 1 June -15 September.

The Bathing Waters (Scotland) Regulations 2008 require that Scottish Ministers must consult the public about any proposed change in the period of the bathing water season, and take due account of the results.

Current Context

In light of Scotland's continuing response to the COVID-19 pandemic, we consider that the restrictions on movement and physical distancing guidance need to be taken into account this year in determining whether we "**expect a large number of people**" in our bathing waters during the normal 1 June -15 September bathing water season.

[The Health Protection \(Coronavirus\) \(Restrictions\) \(Scotland\) Regulations 2020](#) require people to stay at home, except for very limited purposes, such as the taking of exercise. The Coronavirus Regulations also stop public gatherings of more than 2 people (with some very limited exceptions).

The Scottish Government's "[Coronavirus \(COVID-19\): staying at home and away from others \(physical distancing\)](#)" guidance advises that people should only leave the house for very limited purposes, including "daily exercise, for example a run, walk or cycle – alone or with members of your household", and that "These reasons are exceptions – even when doing these activities, you should be minimising time spent outside of the home and ensuring you are 2 metres apart from anyone outside of your household".

Why are we consulting?

The Scottish Government's "[COVID-19: A Framework for Decision Making](#)" is clear that "any easing of restrictions will be conducted in a phased and careful manner." Whilst at this stage it is uncertain how long restrictions will require to be in place, it seems unlikely there will be large numbers of people bathing on our beaches from the usual start of the bathing season on 1 June.

In keeping with the phased approach set out in the COVID-19 Framework, Scottish Ministers therefore are proposing to postpone –

- the determination of the period of the bathing season for 2020, so it will not start on 1 June this year, and
- the designation of any bathing waters in Scotland,

on the grounds that they do not expect large numbers of people bathing on our beaches from 1 June 2020.

The Scottish Ministers propose to keep this matter under review throughout the summer. If the restrictions are sufficiently relaxed such that it becomes reasonable to expect large numbers of people bathing on Scotland's beaches, Scottish Ministers would then consider the determination of a shorter 2020 bathing season at that point.

The Scottish Ministers are undertaking this consultation under regulation 5 of the Bathing Water (Scotland) Regulations 2008. It should be understood that postponing the determination of the bathing water season does not imply that beaches are closed. They would remain open for individuals to enjoy their daily exercise in line with the current restrictions in the Coronavirus Regulations. There are of course many other beaches in Scotland which are not designated each year as bathing waters, on the basis that large numbers are not normally expected to bathe there. In effect, postponing the bathing season means that all beaches in Scotland are treated in the same way while the pandemic continues.

Timing

The Bathing Water season would normally start on 1 June 2020 and in the current exceptional circumstances the time available for this specific public consultation is limited to two weeks. In order to carry out the public consultation we would therefore welcome responses requested by 29 May 2020.

Consultation Question

1. Do you agree with the proposal to postpone the determination of the period of the bathing season for 2020 and of the designation of any bathing waters, in light of the on-going COVID-19 pandemic, and keep the matter under review throughout the summer months in line with the Scottish Government's COVID-19 framework for decision making?

Responding to this Consultation

We are inviting responses to this consultation by 29 May 2020.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/environment-forestry/2020-bathing-season/>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 29 May 2020.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form and send it to eqce@gov.scot.

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy:
<https://beta.gov.scot/privacy/>

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to eqce@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



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RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:
<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
- Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)
- Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

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We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No

Consultation Question

In keeping with the phased approach set out in the Scottish Government's "COVID-19: A Framework for Decision Making" Scottish Ministers are proposing to postpone the establishment of a formal bathing season on 1 June, and keep this matter under review throughout the summer. If the restrictions are sufficiently relaxed such that it becomes reasonable to expect large numbers of people on Scotland's beaches, Scottish Ministers would then consider the establishment of a shorter bathing season at that point.

1. Do you agree with the proposal to postpone the determination of the period of the bathing season for 2020 and of the designation of any bathing waters, in light of the on-going COVID-19 pandemic, and keep the matter under review throughout the summer months in line with the Scottish Government's COVID-19 Framework for Decision Making?

- Yes
- No



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The Scottish Government
St Andrew's House
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ISBN: 978-1-83960-747-9 (web only)

Published by The Scottish Government, May 2020

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS734786 (05/20)