
STATUTORY INSTRUMENTS

1996 No. 3047

The Surface Waters (Abstraction for Drinking Water) (Classification) (Scotland) Regulations 1996

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Surface Waters (Abstraction for Drinking Water) (Classification) (Scotland) Regulations 1996, shall come into force on 6th January 1997 and shall extend to Scotland only.

(2) In these Regulations—

“the 1975 Directive” means Council Directive [75/440/EEC](#)(1) concerning the quality of surface water intended for the abstraction of drinking water as amended by Council Directive [80/778/EEC](#)(2) and Council Directive [91/676/EEC](#)(3);

“the 1979 Directive” means Council Directive [79/869/EEC](#)(4) concerning methods of measurement and frequencies of sampling and analysis of surface water intended for drinking water;

“SEPA” means the Scottish Environment Protection Agency;

“water authorities” has the same meaning as in section 62(1) of the Local Government etc (Scotland) Act 1994(5), and the “relevant water authority” is the water authority within whose area waters referred to in these Regulations are situated.

(3) Expressions used in these Regulations which are also used in the 1975 Directive or the 1979 Directive shall have the same meaning as in those Directives.

(4) In these Regulations any reference to the supply of water as drinking water shall be taken to be a reference to the supply of that water as drinking water after it has undergone purification treatment.

Classification of waters

2. The classifications DW1, DW2 and DW3 and the criteria for those classifications set out in Schedule 1 shall apply for classifying inland waters by reference to their suitability for abstraction for supply as drinking water.

Guideline values

3. In discharging their functions SEPA and the water authorities shall endeavour to respect the guideline values specified in Schedule 2 for waters of the relevant class.

(1) OJ No L194, 25.7.75 p26.
(2) OJ No L229, 30.8.80 p11.
(3) OJ No L375, 31.12.91 p1.
(4) OJ No L271, 29.10.79, p44.
(5) [1994 c. 39](#).

No deterioration principle

4. Implementation of measures taken pursuant to the 1975 Directive may under no circumstances lead directly or indirectly to deterioration of the current quality of surface water.

Compliance with relevant limits

5.—(1) Subject to paragraphs (2) and (3) below, any waters classified under these Regulations shall be treated as complying with the limit specified in Schedule 1 for waters of the relevant class in relation to a parameter if—

- (a) 95 per cent of the samples taken in relation to those waters in accordance with regulation 9 comply with the limit;
- (b) none of the samples exceeds the limit by more than 50 per cent;
- (c) there is no danger to public health; and
- (d) consecutive samples taken at statistically suitable intervals do not exceed the limit.

(2) Non-compliant samples shall be ignored for the purposes of paragraph (1) above if they are the result of a flood, natural disaster or abnormal weather conditions.

(3) Paragraph (1)(b) above shall not apply in the case of the limits specified in Schedule 1 in relation to temperature.

Compliance with guideline values

6.—(1) Subject to paragraphs (2) and (3) below, any waters classified under these Regulations shall be treated as complying with the limit specified in Schedule 2 for waters of the relevant class in relation to a parameter if—

- (a) 90 per cent of the samples taken in relation to the waters in accordance with regulation 9 below comply with the standard;
- (b) none of the samples fails the standard by more than 50 per cent;
- (c) there is no danger to public health; and
- (d) consecutive samples taken at statistically suitable intervals do not exceed the standard.

(2) Non-compliant samples shall be ignored for the purposes of paragraph (1) above if they are the result of a flood, natural disaster or abnormal weather conditions.

(3) Paragraph (1)(b) above shall not apply in the case of the limits specified in Schedule 2 in relation to temperature, pH, dissolved oxygen and microbiological parameters.

Waivers

7.—(1) Subject to the following provisions of this regulation the Secretary of State may waive any requirement to comply with the relevant limit value specified in Schedule 1 for any parameter in relation to waters classified under these Regulations if he considers it appropriate to do so—

- (a) as a result of any flood or other natural disaster;
- (b) in the case of any parameter marked (0) in Schedule 1, as a result of exceptional meteorological or geographical conditions;
- (c) where the waters undergo natural enrichment in certain substances as a result of which the waters would exceed the relevant limit value for that parameter;
- (d) in the case of a shallow loch or virtually stagnant surface water, for parameters marked with an asterisk in Schedule 1.

(2) The Secretary of State shall not waive any requirement if that would result in a danger to public health.

(3) Paragraph (1)(d) above shall only apply in the case of a shallow loch where—

- (a) the depth of the loch does not exceed 20 metres;
- (b) the exchange of water is slower than a year; and
- (c) waste water is not discharged in to the loch.

(4) In this regulation “natural enrichment” means a process whereby without human intervention a given body of water receives from the soil certain substances contained therein.

8.—(1) Subject to the following provisions of this regulation, the Secretary of State may waive any requirement to endeavour to respect the relevant limit value specified in Schedule 2 for any parameter in relation to any waters if he considers it appropriate to do so—

- (a) as a result of any flood or other natural disaster;
- (b) where the waters undergo natural enrichment in certain substances as a result of which the waters would exceed the standard for that parameter;
- (c) in the case of a shallow loch or virtually stagnant surface water, for parameters marked with an asterisk in Schedule 2.

(2) The Secretary of State shall not waive any standard if that would result in a danger to public health.

(3) Paragraph (1)(c) above shall only apply in relation to a loch if—

- (a) the depth of the water does not exceed 20 meters;
- (b) the exchange of water is slower than a year; and
- (c) waste water is not discharged into the loch.

(4) In this regulation “natural enrichment” means a process whereby without human intervention a given body of water receives from the soil certain substances contained therein.

Sampling and analysis

9.—(1) Subject to regulations 10 and 11, the water authorities shall ensure that waters classified under these Regulations are sampled and samples are analysed, in accordance with paragraphs (2) to (5) below.

(2) Samples shall always be taken at the same sampling point at times when water is being abstracted by the relevant water authority for supply as drinking water and the sampling point chosen by the relevant water authority must be—

- (a) at the place where water is abstracted before being sent for purification treatment; and
- (b) so situated that samples taken at that point are representative of the quality of the water at that place.

(3) Samples shall be analysed for compliance with the parameters listed in Schedule 1, and where relevant Schedule 2, for the relevant class of waters using methods of measurement which are at least as reliable as those specified in that Part I of Schedule 3 and respect the values shown in that Part for limits of detection, precision and accuracy.

(4) Sampling and analysis shall be carried out at the frequency fixed by the relevant water authority in relation to the sampling point for those waters for each parameter listed in Schedule 1, and where relevant Schedule 2, and, in fixing the frequency, the relevant water authority shall ensure that—

- (a) sampling is carried out at regular intervals;

- (b) the annual frequency of sampling and analysis for each parameter is not less than that specified in Part II of Schedule 3 for the relevant class of waters; and
- (c) sampling is as far as possible spread over the year so as to give a representative picture of the quality of the water.

(5) The containers used for samples, the agents or methods used to preserve part of the sample for the analysis of one or more parameters, the conveyance and storage of the samples and the preparation of samples for analysis must not be such as to bring about any significant change in the results of the analysis.

Reduction of frequency of sampling etc

10.—(1) Where a survey of any waters classified for the purposes of these Regulations shows that the values obtained for any parameters are considerably superior to the relevant limits specified in Schedule 1 for that class of waters in relation to those parameters, the relevant water authority may, after consultation with SEPA, reduce the frequency of sampling of the waters in relation to those parameters.

(2) The relevant water authority may, after consultation with SEPA decide, that regular sampling and analysis of waters classified under these Regulations is not needed if—

- (a) the requirements of paragraph (1) above are satisfied in relation to the waters;
- (b) there is no pollution of the waters;
- (c) there is no risk of the quality of the waters deteriorating; and
- (d) the quality of the waters is superior to the minimum required for waters classified as DW1.

11.—(1) Where a survey of any waters treated in accordance with regulation 6 as complying with any limit specified in Schedule 2 shows that the values obtained for any parameters are considerably superior to the relevant limits specified in Schedule 2 for that class of waters in relation to those parameters, the relevant water authority may, after consultation with SEPA, reduce the frequency of sampling of the waters in relation to those parameters.

(2) The relevant water authority may, after consultation with SEPA decide that regular sampling and analysis of waters classified under these Regulations is not needed if—

- (a) the requirements of paragraph (1) above are satisfied in relation to the waters;
- (b) there is no pollution of the waters;
- (c) there is no risk of the quality of the waters deteriorating; and
- (d) the quality of the waters is superior to the minimum required for waters classified as DW1.

Systematic plan of action

12. SEPA shall draw up and maintain a systematic plan of action including a timetable for the improvement of surface water for the purposes of article 4 of the 1975 Directive.

Information

13. SEPA may serve on any person a notice requiring that person to furnish SEPA, within a period or at times specified in the notice, and in a form and manner so specified, with such information as is reasonably required by SEPA for the purposes of giving effect to the 1975 Directive and the 1979 Directive.

Registers

14.—(1) Each water authority shall maintain a register containing full particulars of—

- (a) sampling points in its area fixed under regulation 9(2) above;
- (b) results of analysis of samples taken under these regulations; and
- (c) the dates on which such samples were taken.

(2) The register maintained in pursuance of subsection (1) above shall be open to inspection by the public free of charge at all reasonable times, and members of the public shall be afforded reasonable facilities for obtaining from the relevant water authority, on payment of reasonable charges, copies of entries in the register.

(3) SEPA shall include in the registers it maintains under section 41 of the Control of Pollution Act 1974(6) full particulars of the plans and timetables drawn up and maintained under regulation 12 above.

Modification of the Control of Pollution Act 1974

15.—(1) Section 30A(1)(c) of the Control of Pollution Act 1974(7) (meaning of “controlled waters”) shall have effect as if “inland waters” included all waters which need to be classified under these Regulations to give effect to the 1975 Directive in Scotland.

(2) Section 30C of the Control of Pollution Act 1974(8) (water quality objectives) shall have effect—

- (a) as if it imposed a duty on the Secretary of State to exercise his powers under that section to specify the classification DW1, DW2 or DW3 as appropriate in relation to all inland waters used or intended to be used by water authorities for supply as drinking water;
- (b) in relation to the performance of that duty, as if subsections (4) and (5) of that section were omitted.

Consequential amendments and revocations

16.—(1) Regulation 23 of the Water Supply (Water Quality) (Scotland) Regulations 1990(9) (treatment of raw water) shall be amended as follows—

- (a) in paragraph (2), for the words the Surface Waters (Classification) (Scotland) Regulations 1990(10) there shall be substituted the words “The Surface Waters (Abstraction for Drinking Water) (Classification) (Scotland) Regulations 1996”; and
- (b) paragraph (3) shall be omitted.

(2) The Surface Waters (Classification) (Scotland) Regulations 1990 are hereby revoked.

St Andrew’s House,
Edinburgh
3rd December 1996

George Kynoch
Parliamentary Under Secretary of State Scottish
Office

(6) 1974 c. 40; section 41 was inserted by section 169 and paragraph 4 of Schedule 23 to the Water Act 1989 (c. 15) and was amended by section 120 and paragraph 29(10), (17), (18) and (19) of Schedule 22 to the Environment Act 1995 (c. 25).

(7) Section 30A(1)(c) was inserted by section 169 and paragraph 4 of Schedule 23 to the Water Act 1989 (c. 15).

(8) 1974 c. 40; section 30C was inserted by section 169 and paragraph 4 of Schedule 23 to the Water Act 1989 (c. 15) and was amended by section 120 and paragraph 29(2) and (4) of Schedule 22 to the Environment Act 1995 (c. 25).

(9) S.I. 1990/119; relevant amendments were made by S.I. 1991/1333.

(10) S.I. 1990/121.