

2003 No. 85

WATER

The Surface Waters (Fishlife) (Classification) (Scotland) Amendment Regulations 2003

Made 12th February 2003

Laid before the Scottish Parliament 14th February 2003

Coming into force 10th March 2003

The Scottish Ministers, in exercise of the powers conferred by sections 30B and 104(1) of the Control of Pollution Act 1974(a), and by section 2(2) of the European Communities Act 1972(b), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Surface Waters (Fishlife) (Classification) (Scotland) Amendment Regulations 2003 and shall come into force on 10th March 2003.

(2) In these Regulations—

“the 1997 Regulations” means the Surface Waters (Fishlife) (Classification) (Scotland) Regulations 1997(c).

Amendments of the 1997 Regulations

2.—(1) The 1997 Regulations are amended as follows.

(2) In regulation 4 (sampling and analysis), for paragraph (5) there is substituted—

“(5) Where the Scottish Environment Protection Agency records show that the quality of any waters classified under these Regulations is appreciably higher for any parameter than the minimum required by these Regulations for waters of that class, the frequency of the sampling may be reduced for that parameter.

(5A) Where the Scottish Environment Protection Agency records that there is no pollution or no risk of deterioration in the quality of any waters classified under these Regulations, the Agency may decide that no sampling is necessary.”

(a) 1974 c.40; section 30B was inserted, as part of a substitution of a new Part II of the Act, by the Water Act 1989 (c.15), section 169 and Schedule 23, paragraph 4; section 104(1) was amended by the Water Act 1989, section 169 and Schedule 23, paragraph 7 and by the Environment Act 1995 (c.25), Schedule 22, paragraph 29(34). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 1972 c.68; section 2(2) was amended by the Scotland Act 1998, Schedule 8, paragraph 15(3). The function conferred upon the Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, was transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(c) S.I. 1997/2471.

(3) After regulation 5 there is inserted–

“Pollution Reduction Programmes

5A. The Scottish Environment Protection Agency shall establish programmes in order to reduce pollution in waters classified under these Regulations and to ensure that waters so classified comply with the requirements of regulation 3 above.”.

St Andrew's House,
Edinburgh
12th February 2003

ROSS FINNIE
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Surface Waters (Fishlife) (Classification) (Scotland) Regulations 1997 (“the 1997 Regulations”), which prescribe a system for classifying and monitoring the quality of inland waters which need protection or improvement in order to support fishlife.

Regulation 2(2) substitutes regulation 4(5) of the 1997 Regulations and adds new regulation 4(5A), to clarify the original provisions.

Regulation 2(3) adds a new regulation 5A to the 1997 Regulations. This places a duty on the Scottish Environment Protection Agency to establish programmes to reduce pollution in waters classified under the 1997 Regulations.

The 1997 Regulations, as amended by these Regulations, together with the Surface Waters (Fishlife) (Classification) (Scotland) Directions 1999 and the Surface Waters (Fishlife) (Scotland) Directions 2003 transpose Directive 78/659/EEC (on the quality of fresh waters needing protection or improvement in order to support fishlife).

Copies of the Surface Waters (Fishlife) (Classification) (Scotland) Directions 1999 and the Surface Waters (Fishlife) (Scotland) Directions 2003 may be obtained from the Water Environment Unit, Scottish Executive Environment and Rural Affairs Department, Victoria Quay, Edinburgh EH6 6QQ.

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**The Surface Waters (Fishlife) (Classification) (Scotland)
Amendment Regulations 2003**

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