
STATUTORY INSTRUMENTS

1997 No. 1331

The Surface Waters (Fishlife) (Classification) Regulations 1997

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Surface Waters (Fishlife) (Classification) Regulations 1997 and shall come into force on 12th June 1997.

(2) Expressions used in these Regulations which are also used in Directive 78/659/EEC(1) (the quality of fresh waters needing protection or improvement in order to support fish life) shall have the same meaning as in that Directive.

Classification of waters

2. The classifications SW (“salmonid waters”) and CW (“cyprinid waters”), and the criteria for those classifications, set out in the Schedule to these Regulations shall apply for classifying inland freshwaters which need protection or improvement in order to support fish life.

Compliance with relevant requirements

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

- (a) in the case of the parameter for pH, non-ionised ammonia, total ammonium, total residual chlorine or total zinc, 95 per cent of the samples taken for that parameter in accordance with regulation 4 below comply with the requirements;
- (b) in the case of the parameter for temperature or dissolved oxygen, the percentage specified in that Schedule of samples taken for that parameter in accordance with regulation 4 below comply with the requirements.

(2) When the frequency of sampling is lower than one sample per month for any parameter mentioned in sub-paragraph (1)(a) above in relation to any waters classified under these Regulations, 100 per cent of samples taken for that parameter in accordance with regulation 4 in relation to those waters must comply with the requirements for that parameter specified in the Schedule to these Regulations for waters of the relevant class.

(3) Non-compliant samples shall be ignored for the purposes of paragraphs (1) and (2) above if they are the result of a flood or any other natural disaster.

Sampling and analysis

4.—(1) The Environment Agency shall ensure that waters classified under these Regulations are sampled and samples are analysed in accordance with the following provisions of this Regulation.

(2) Samples in relation to any waters classified under these Regulations shall always be taken at the same sampling point.

(1) O.J. No. L 222, 14.8.1978, p. 1.

(3) The Environment Agency shall fix the exact position of the sampling point, and the depth at which samples are to be taken, having regard in particular to—

- (a) the distance of the sampling point to the nearest point where pollutants are discharged; and
- (b) local environmental conditions.

(4) Subject to paragraphs (5) and (6) below, sampling for any parameter shall be carried out at least at the minimum frequency specified in the Schedule to these Regulations for that parameter for waters of the relevant class.

(5) Where the Environment Agency's 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 Agency may reduce the sampling frequency for that parameter or, if there is no pollution and no risk of deterioration of its quality, it may dispense with sampling for that parameter altogether.

(6) Where sampling shows that the requirements of regulation 3 above are not being complied with, the Environment Agency shall establish whether this is the result of chance, a natural phenomenon or pollution and shall adopt appropriate measures.

(7) Samples for any parameter shall be analysed using the reference methods of analysis specified in the Schedule to these Regulations in relation to that parameter or methods which are at least as reliable as the reference methods.

Derogations

5.—(1) The Agency may derogate from the requirements of these Regulations—

- (a) in the case of requirements marked (0) in the Schedule to these Regulations, because of exceptional weather or special geographical conditions; or
- (b) where waters classified under these Regulations undergo natural enrichment in certain substances as a result of which they do not comply with the requirements specified in the Schedule to these Regulations for waters of the relevant class.

(2) 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.

Modifications of the Water Resources Act 1991

6.—(1) Section 83 of the Water Resources Act 1991 shall have effect—

- (a) as if it imposed a duty on the Secretary of State to exercise the powers conferred on him by that section to classify appropriately under these Regulations such waters as are appropriate for the purpose of giving effect to Directive [78/659/EEC](#) in England and Wales; and
- (b) in relation to the performance of that duty, as if subsections (4) and (5) of that section were omitted.

(2) Section 104(1) of the Water Resources Act 1991 (meaning of “controlled waters”) shall have effect for the purpose of giving effect to Directive [78/659/EEC](#) as if “inland freshwaters” included all waters which are fresh waters for the purposes of that Directive.

(3) Section 202(2) of the Water Resources Act 1991 (information in connection with the control of pollution) shall have effect as if it conferred power on the Secretary of State and the Environment Agency to require the furnishing of information reasonably required for the purposes of giving effect to Directive [78/659/EEC](#).

19th May 1997

John Prescott
Secretary of State,
Department of Environment

Signed by authority of the Secretary of State for Wales

19th May 1997

Win Griffiths
Parliamentary Under Secretary of State, Welsh
Office