
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 170

The Bathing Waters (Scotland) Regulations 2008

PART 8

MODIFICATION OF INSTRUMENTS

Amendment of 2005 Regulations

20. In Part 2 of Schedule 4 to the Water Environment (Controlled Activities) (Scotland) Regulations 2005⁽¹⁾—

- (a) insert “The Bathing Waters (Scotland) Regulations 2008⁽²⁾” immediately after the entry relating to the Control of Pollution (Silage Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003⁽³⁾; and
- (b) omit “The Bathing Waters (Classification) (Scotland) Regulations 1991”.

Transitional provisions

21.—(1) The Bathing Waters (Classification) (Scotland) Regulations 1991⁽⁴⁾ have effect as if—

- (a) the reference in regulation 2(2) to “Article 1.2 of Council Directive 76/160/EEC” were a reference to “Article 1.3 of European Parliament and Council Directive 2006/7/EC”;
- (b) regulation 3 of those Regulations read—

“Waters subject to classification BW1

3.—(1) The classification BW1 shall be applied to any surface water from time to time designated by the Scottish Ministers as a bathing water under regulation 3 of the Bathing Waters (Scotland) Regulations 2008⁽⁵⁾.

(2) In this regulation “surface water” has the same meaning as it has in section 3 of the Water Environment and Water Services (Scotland) Act 2003⁽⁶⁾.”;

- (c) the only criteria for the classification BW1 in Schedule 1 to those Regulations (criteria for classification BW1) were that at least 95 per cent of samples of waters taken and tested in accordance with these Regulations for *Escherichia coli* meet the parametric value of 2,000 per 100 millilitres; and
- (d) Schedules 2 and 3 to those Regulations were omitted.

(1) S.S.I. 2005/348.
(2) S.S.I. 2008/170.
(3) S.S.I. 2003/531.
(4) S.I.1991/1609.
(5) S.S.I. 2008/170.
(6) 2003 asp 3.

(2) Every direction given to SEPA under section 40 of the Environment Act 1995 (ministerial directions to the new agencies)(7) in relation to the Bathing Waters (Classification) (Scotland) Regulations 1991 has effect—

(a) subject to the transitional provisions in paragraph (1); and

(b) as if—

(i) the only entries in the Annex to Council Directive [76/160/EEC](#) concerning the quality of bathing water(8) were intestinal enterococci or *Escherichia coli*; and

(ii) conformity with the values which appear in column G of that Annex were met where—

(aa) at least 90 per cent of samples of waters taken and tested in accordance with these Regulations for intestinal enterococci meet the parametric value of 100 per 100 millilitres; and

(bb) at least 80 per cent of samples of waters taken and tested in accordance with these Regulations for *Escherichia coli* meet the parametric value of 100 per 100 millilitres.

(3) Until it classifies a bathing water under regulation 10, for the purposes of regulation 8 SEPA must, subject to the transitional provisions in this regulation, classify the bathing water by reference to whether it conforms to the values in column I or G of the Annex to Council Directive [76/160/EEC](#).

Revocation

22. The Bathing Waters (Classification) (Scotland) Regulations 1991 are revoked.

(7) [1995 \(c. 25\)](#); there have been amendments to section 40 not relevant to these regulations. The functions conferred on the appropriate Minister by section 40 of the Environment Act 1995, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act [1998 \(c. 46\)](#).

(8) O.J. No. L 31, 5.2.1976, p.1, amended by Council Directive [91/692/EEC](#) of 23 December 1991 (O.J. No. L 377, 31.12.1991, p.48) and by Council Regulation (EC) No. [807/2003](#) (O.J. No. 122, 16.05.2003, p.36).