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STATUTORY INSTRUMENTS

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**1991 No. 1609 (S. 144)**

**PUBLIC HEALTH, SCOTLAND**

**The Bathing Waters (Classification)  
(Scotland) Regulations 1991**

<i>Made</i>	- - - -	<i>3rd July 1991</i>
<i>Laid before Parliament</i>		<i>19th July 1991</i>
<i>Coming into force</i>	- -	<i>9th August 1991</i>

The Secretary of State, in exercise of the powers conferred on him by sections 30B, 102(1), 104(1) and 105(1) of the Control of Pollution Act 1974(1) and by section 2(2) of the European Communities Act 1972(2), being the Minister designated(3) for the purposes of that subsection in relation to the prevention, reduction and elimination of pollution of water, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, commencement and extent**

1. These Regulations may be cited as the Bathing Waters (Classification) (Scotland) Regulations 1991, shall come into force on 9th August 1991 and shall extend to Scotland only.

**Classification of waters**

2.—(1) A system employing the classification BW1 is prescribed as a system of classification applying to relevant territorial waters, coastal waters and inland waters which are bathing waters.

(2) For the purposes of paragraph (1) above “bathing waters” are waters which are bathing water within the meaning of Article 1.2 of Council Directive 76/160/EEC(4) and other waters which are used for bathing.

(3) Schedules 1, 2 and 3 to these Regulations (which specify criteria for classification BW1, impose sampling requirements and set out quality standards) shall have effect.

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(1) 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), Schedule 23, paragraph 4; section 104(1) was amended by the 1989 Act, Schedule 23, paragraph 7; section 105(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.  
(2) 1972 c. 68.  
(3) S.I. 1989/2393.  
(4) O.J. No. L31, 5.2.76, p.1.

### **Modification of section 30C of the Control of Pollution Act 1974**

3. Section 30C of the Control of Pollution Act 1974(5) shall have effect as if—
- (a) it imposed a duty on the Secretary of State to exercise his powers under that section to apply the classification BW1 to relevant territorial waters, coastal waters and inland waters which are bathing water within the meaning of Article 1.2 of Council Directive [76/160/EEC](#); and
  - (b) in relation to the establishment of water quality objectives in pursuance of that duty, subsections (4) and (5) of that section were omitted.

St. Andrew's House,  
Edinburgh  
3rd July 1991

*James Douglas-Hamilton*  
Parliamentary Under Secretary of State, Scottish  
Office

## SCHEDULE 1

Regulation 2(3)

### CRITERIA FOR CLASSIFICATION BW1

1. Subject to the following provisions of this Schedule, the criteria for the classification BW1 are that—

- (a) at least 95 per cent of samples of the waters taken and tested in accordance with Schedule 2 must conform to the parametric values specified in Schedule 3;
- (b) no sample of the waters taken in accordance with Schedule 2 which, when tested for compliance with the phenols parameter by the absorption method or with the transparency parameter fails to comply, shall have a value which deviates from the relevant parametric value for that parameter specified in Schedule 3 by more than 50 per cent; and
- (c) consecutive samples of the waters taken in accordance with Schedule 2 at statistically suitable intervals shall not when tested deviate from the relevant parametric values specified in Schedule 3.

2. For the purposes of paragraph 1 above samples shall be disregarded if they deviate from the parametric values specified in Schedule 3 as a result of abnormal weather conditions, floods or other natural disasters.

3.—(1) Subject to sub-paragraph (2) below, where in the case of particular waters to which the classification BW1 applies—

- (a) any requirement relating to the parameter for pH, colour or transparency cannot be complied with as a result of exceptional weather or geographical conditions; or
- (b) any requirement relating to any parameter cannot be complied with as a result of the waters having undergone a process of natural enrichment from the soil without human intervention,

the Secretary of State may by notice served on the river purification authority whose area includes those waters modify or disapply that requirement in relation to those waters.

(2) The Secretary of State shall not exercise his powers under this paragraph so as to permit a public health risk.

## SCHEDULE 2

Regulation 2(3)

### SAMPLING REQUIREMENTS

1. Samples must be taken in accordance with the requirements of Schedule 3 in any year throughout the period beginning on 1st May and ending on 30th September.

2. Additional samples must be taken during that period if there are grounds to suspect that the quality of the waters is deteriorating for any reason or is likely to deteriorate as a result of any discharge.

3. All samples must be taken at the same point at the place in the particular waters where the daily average density of bathers is at its highest, and preferably 30 centimetres below the surface, except in the case of samples for testing for mineral oils, which must be taken at surface level.

4. The methods of analysis and inspection specified in Schedule 3, or methods which are at least as reliable, must be used for determining whether the parametric values specified in that Schedule are met.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE 3

Regulation 2(3)

## QUALITY AND ADDITIONAL SAMPLING REQUIREMENTS

Parameter	Parametric value	Minimum sampling frequency	Methods of analysis and inspection
Micro-biological: Total Coliforms	10,000/100ml	Fortnightly ( <i>see Note 1</i> )	Fermentation in multiple tubes. Sub-culturing of the positive tubes on a confirmation medium. Either counting according to MPN (most probable number) or membrane filtration, culturing on an appropriate medium, sub-culturing and identification of the suspect colonies.  The incubation temperature is variable according to whether total or faecal
Faecal coliforms	2,000/100ml	Fortnightly ( <i>see Note 1</i> )	
Faecal coliforms	2,000/100ml	Fortnightly ( <i>see Note 1</i> )	

## Notes

1. Samples may be taken at intervals of four weeks where samples taken in previous years show that the waters are of an appreciably higher standard than that required for classification BW1 and the quality of the waters has not subsequently deteriorated and is unlikely to do so.
2. Samples must be taken in relation to this parameter when there are grounds for suspecting that there has been a deterioration in the quality of the waters or the substance is likely to be present in the waters.

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Parameter	Parametric value	Minimum sampling frequency	Methods of analysis and inspection
Salmonella	Absent in 1 litre	(see Note 2)	coliforms are being investigated Membrane filtration, culturing on an appropriate medium, sub-culturing and identification of the suspect colonies.
Enteroviruses	No plaque forming units in 10 litres	(see Note 2)	Concentration (by filtration, flocculation or centrifuging) and confirmation.
Physico-chemical: pH	6 to 9	(see Note 2)	Electrometry with calibration at pH 7 and 9.
Colour	No abnormal change in colour	Fortnightly (see Note 1)	Visual inspection or photometry with standards on the platinum cobalt scale.
Mineral oils	No film visible on the surface of the water and no odour	Fortnightly (see Note 1)	Visual and olfactory inspection.

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Parameter	Parametric value	Minimum sampling frequency	Methods of analysis and inspection
Surface-active substances reacting with methylene blue	No lasting foam	Fortnightly ( <i>see Note 1</i> )	Visual inspection.
Phenols (phenol indices)	No specific odour	Fortnightly ( <i>see Note 1</i> )	Olfactory inspection.
	≤0.5 mg/litre (C <sub>6</sub> H <sub>5</sub> OH)	( <i>see Note 2</i> )	Absorption spectrophotometry 4-aminoantipyrine (4 AAP) method.
Transparency	1 metre	Fortnightly ( <i>see Note 1</i> )	Secchi's disc.

## Notes

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2. Samples must be taken in relation to this parameter when there are grounds for suspecting that there has been a deterioration in the quality of the waters or the substance is likely to be present in the waters.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which extend to Scotland only, prescribe a system of classification for determining the quality of relevant territorial waters, coastal waters and inland waters which are bathing waters. The classification BW1 prescribed by the Regulations reflects the mandatory standards laid down in the Annex to Council Directive [76/160/EEC](#) (O.J. No. L31, 5.2.76, p.1) concerning the quality of bathing water.

The system of classification prescribed by the Regulations will be used for establishing quality objectives under section 30C of the Control of Pollution Act 1974 (“the 1974 Act”) for bathing waters (regulation 2 and Schedules 1 to 3).

Paragraph 3 of Schedule 1 gives the Secretary of State power to grant derogations from certain requirements of the objectives in circumstances permitted by Article 8 of Council Directive [76/160/EEC](#). There are sampling requirements in Schedules 2 and 3 and the Secretary of State will use his powers under section 54 of the 1974 Act to direct the river purification authorities to sample and test waters within their areas to which classification BW1 applies in accordance with those requirements.

Regulation 3 imposes a duty on the Secretary of State to use his powers under section 30C of the 1974 Act to apply the classification BW1 to waters which are “bathing water” within the meaning of Council Directive [76/160/EEC](#). It also dispenses with the requirements of section 30C(4) and (5) (representations and objections) in cases where the Secretary of State is performing that duty.