
STATUTORY INSTRUMENTS

1998 No. 250 (S.9)

WATER, SCOTLAND

**The Surface Waters (Dangerous Substances)
(Classification) (Scotland) Regulations 1998**

<i>Made</i>	- - - -	<i>27th January 1998</i>
<i>Laid before Parliament</i>		<i>10th March 1998</i>
<i>Coming into force</i>	- -	<i>1st April 1998</i>

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

Citation, commencement and extent

1. These Regulations may be cited as the Surface Waters (Dangerous Substances) (Classification) (Scotland) Regulations 1998 shall come into force on 1st April 1998, and shall extend to Scotland only.

Classification of inland waters

2. The classification DS4 and the criteria for that classification set out in Schedule 1 to these Regulations shall apply for classifying inland waters(4) with a view to reducing the pollution of those waters by the dangerous substances listed in that Schedule.

Classification of coastal waters and relevant territorial waters

3. The classification DS5 and the criteria for that classification set out in Schedule 2 to these Regulations shall apply for classifying coastal waters(a) and relevant territorial waters(a) with a view to reducing the pollution of those waters by the dangerous substances listed in that Schedule.

(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) section 169 and Schedule 23, paragraph 4.
(2) S.I.1989/2393.
(3) 1972 c. 68.
(4) For the definition of “inland waters”, “coastal waters” and “relevant territorial waters” see section 30A(1) of the Control of Pollution Act 1974.

Sampling

4. The Scottish Environment Protection Agency shall ensure that waters classified under these Regulations are sampled at such sampling points and at such times, and samples are analysed in such manner, as the Agency considers necessary for—

- (a) monitoring the effect on those waters of discharges containing the dangerous substances in question; and
- (b) determining the extent to which those waters are polluted by those substances and whether the requirements for the relevant classification are satisfied.

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

5. Section 30C of the Control of Pollution Act 1974⁽⁵⁾ (water quality objectives) 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 DS4 to all inland waters and the classification DS5 to all coastal waters and relevant territorial waters and to specify 1st April 1998 as the relevant date in each case; and
- (b) in relation to performance of that duty and the resulting water quality objectives, subsections (3) to (6) of that section (reviews and consultation requirements) were omitted.

St Andrew's House,
Edinburgh
27th January 1998

Sewel
Parliamentary Under Secretary of State, Scottish
Office

(5) 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).

SCHEDULE 1

Regulation 2

CRITERIA FOR CLASSIFICATION DS4

1. Subject to paragraph 2 below, the requirements for the classification DS4 are that–
 - (a) the annual mean concentration of each substance listed in column (1) of Table 1 in samples taken from the sampling point for the waters in question in accordance with regulation 4 above does not exceed the relevant limit shown in column (2); and
 - (b) the concentration of each substance listed in column (1) of Table 2 in each sample so taken does not exceed the relevant limit shown in column (2).
2. Where samples are taken in accordance with regulation 4 above from more than one sampling point in relation to the waters in question, the requirement in paragraph 1(a) above must be satisfied in relation to the samples from each sampling point.

TABLE 1

<i>(1)</i> <i>Dangerous substance</i>	<i>(2)</i> <i>Limit (in microgrammes per litre) (annual mean)</i>
Arsenic	50
Atrazine & Simazine	2 (for the 2 substances in total)
Azinphos-methyl	0.01
Dichlorvos	0.001
Endosulphan	0.003
Fenitrothion	0.01
Malathion	0.01
Trifluralin	0.1

TABLE 2

<i>(1)</i> <i>Dangerous substance</i>	<i>(2)</i> <i>Limit (in microgrammes per litre)</i>
Tributyltin	0.02
Triphenyltin and its derivatives	0.02

SCHEDULE 2

Regulation 3

CRITERIA FOR CLASSIFICATION DS5

1. Subject to paragraphs 2 and 3 below, the requirements for the classification DS5 are that–
 - (a) the annual mean concentration of each substance listed in column (1) of Table 3 in samples taken from the sampling point for the waters in question in accordance with regulation 4 above does not exceed the relevant limit shown in column (2); and

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(b) the concentration of each substance listed in column (1) of Table 4 in each sample so taken does not exceed the relevant limit shown in column (2).

2. Where samples are taken in accordance with regulation 4 above from more than one sampling point in relation to the waters in question, the requirement in paragraph 1(a) above must be satisfied in relation to the samples from each sampling point.

3. In relation to dichlorvos used as a treatment for sea-lice infestation, compliance with the relevant limit in column (2) of Table 4 shall be determined by reference only to samples taken as nearly as may be after 24 hours have elapsed since it was so used.

TABLE 3

<i>(1)</i> <i>Dangerous substance</i>	<i>(2)</i> <i>Limit (in microgrammes per litre) (annual mean)</i>
Arsenic	25
Atrazine and Simazine	2 (for the 2 substances in total)
Azinphos-methyl	0.01
Dichlorvos	0.04
Endosulphan	0.003
Fenitrothion	0.01
Malathion	0.02
Trifluralin	0.1

TABLE 4

<i>(1)</i> <i>Dangerous substance</i>	<i>(2)</i> <i>Limit (in microgrammes per litre)</i>
Dichlorvos	0.6
Tributyltin	0.002
Triphenyltin and its derivatives	0.008

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe a system for classifying the quality of inland waters, coastal waters and relevant territorial waters with a view to reducing the pollution of those waters by the dangerous substances listed in the Schedules to the Regulations (regulations 2 and 3 and Schedules 1 and 2).

Those substances are substances within List II of Council Directive 76/464/EEC⁽⁶⁾ (which deals with pollution caused by certain dangerous substances discharged into the aquatic environment), and the regulations are made in order to establish water quality objectives for those substances for the purposes of Article 7 of the Directive (pollution reduction programmes).

The Scottish Environment Protection Agency is required by the Regulations to sample waters classified under the Regulations (and analyse samples) so as to monitor the effect on those waters of discharges containing the dangerous substances in question, and to determine the extent of any pollution by those substances and compliance with the requirements for the relevant classification (regulation 4).

Section 30C of the Control of Pollution Act 1974 provides for the establishment of water quality objectives by means of the Secretary of State serving a notice on the Scottish Environment Protection Agency. That section is modified so that—

- (a) the Secretary of State is placed under a duty immediately to classify under the Regulations all inland waters, coastal waters and relevant territorial waters; and
- (b) subsections (3) to (6) (reviews and consultation requirements) are disapplied (regulation 5).

⁽⁶⁾ O.J. 1976 No. L129, p.32.