

1963/30



THE WATERS POLLUTION REGULATIONS 1963

BERNARD FERGUSON, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 25th day of
February 1963

Present:

THE RIGHT HON. KEITH HOLYOAKE, C.H., PRESIDING IN COUNCIL

PURSUANT to the Waters Pollution Act 1953, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. (1) These regulations may be cited as the Waters Pollution Regulations 1963.

(2) These regulations shall come into force on the 1st day of April 1963.

2. (1) In these regulations, unless the context otherwise requires,—

“The Act” means the Waters Pollution Act 1953:

“Coastal waters” means all tidal saline waters within the territorial limits of New Zealand:

“Controlled catchment area” means an area under the control of a local authority to which the public and domestic animals are prohibited from entry and from which waters are drawn for a public water supply or for use in the preparation and processing of food for sale for human consumption:

“Inland waters” means all waters other than coastal waters:

“Outfall”, with respect to any pollutant, means the point at which the pollutant is discharged into waters:

“Uncontrolled catchment area” means an area to which the public or domestic animals are not prohibited from entry and from which waters are drawn or likely to be drawn for public consumption or for use in the manufacture of food for sale for human consumption, whether or not it requires suitable treatment for either of these uses under any other enactment.

(2) Terms and expressions defined in the Act, shall, when used in these regulations, have the meanings so defined.

3. (1) The Council may from time to time carry out investigations for the purpose of ascertaining:

- (a) The extent of the pollution of waters in any locality;
- (b) The cause of any such pollution;
- (c) The number of outfalls from which pollutants are discharged into the waters;
- (d) The persons or authorities by which any such outfalls are controlled;
- (e) The type and amount of pollutants being discharged from each such outfall;
- (f) The uses for the time being made or likely in the future to be made of the waters;
- (g) The extent to which any pollution found to exist should, in the circumstances, be controlled or mitigated;
- (h) Any other information necessary for the purposes of these regulations.

(2) Any such investigation may be carried out at the request of any person or authority having an interest in the mitigation of pollution of the waters affected or the Council may decide to carry out an investigation on its own motion.

(3) Investigations shall be carried out in such order of priority as the Council thinks fit.

4. (1) For the purpose of carrying out any investigation under these regulations the Council, or any person authorised specially or generally in that behalf in writing by the Council, may make surveys, investigations, tests, and measurements in respect of waters pollution, and for that purpose may—

- (a) Enter and re-enter from time to time upon any land to which the authority relates with such assistants, gear, appliances, and equipment as may be necessary;
- (b) Require any person to furnish such information and returns in respect of the pollution of waters as may be considered necessary;
- (c) Take samples of waters;
- (d) Generally do all things necessary in respect of any such survey, investigation, test, or measurement.

(2) Where practicable, reasonable notice of the intention to enter upon any land owned by another person shall be given to the owner and occupier thereof.

(3) Every person who is authorised in writing as aforesaid shall produce his authority when so required by the owner or occupier of any land on which he intends to enter or has entered.

(4) Every person having any estate or interest in land injuriously affected and every person suffering any damage whatever from the exercise of any power under this regulation shall be entitled to full compensation from the Council. Any such compensation may be claimed and may be determined in the manner provided by the Public Works Act 1928.

5. (1) The Council, after carrying out an investigation under these regulations in any locality, shall decide whether or not the waters should be classified for the purposes of these regulations.

(2) Any classification under this regulation shall specify the waters to which the classification relates by reference to a map or plan attached to the classification.

- (3) Where inland waters are classified, they shall be classified as—
- (a) Class A, being water-supply waters in a controlled catchment area; or
 - (b) Class B, being water-supply waters in an uncontrolled catchment area; or
 - (c) Class C, being waters to which the public have ready access and used regularly for bathing; or
 - (d) Class D, being inland waters in classified areas not included in any of the foregoing classes.
- (4) Where coastal waters are classified they shall be classified as—
- (a) Class SA, being waters from which edible shellfish are regularly taken for human consumption; or
 - (b) Class SB, being waters to which the public have ready access and used regularly for bathing; or
 - (c) Class SC, being coastal waters to which the requirements of the Seventh Schedule hereto are applicable; or
 - (d) Class SD, being coastal waters to which the requirements of the Eighth Schedule hereto are applicable.
- (5) Each of the foregoing classes of waters shall be subject to the requirements in respect of pollution specified regarding that class in the appropriate Schedule to these regulations, being—
- (a) In respect of Class A, the First Schedule;
 - (b) In respect of Class B, the Second Schedule;
 - (c) In respect of Class C, the Third Schedule;
 - (d) In respect of Class D, the Fourth Schedule;
 - (e) In respect of Class SA, the Fifth Schedule;
 - (f) In respect of Class SB, the Sixth Schedule;
 - (g) In respect of Class SC, the Seventh Schedule;
 - (h) In respect of Class SD, the Eighth Schedule.
6. The Council shall prepare a preliminary classification after considering such matters as it considers relevant.
7. Where the Council proposes to classify or reclassify any waters, a preliminary classification shall be advertised and circulated to interested local authorities and other interested parties in such manner as the Council thinks fit.
8. (1) The Council may hear such evidence and consider such submissions, whether in writing or otherwise, as it considers relevant.
- (2) After considering any objections and representations with respect to a preliminary classification the Council shall decide whether or not it will make a classification, and if it decides to do so it shall prepare a final classification.
- (3) The Council shall have the right to reclassify any waters from time to time.
9. Where a final classification is made under these regulations, the following provisions shall apply:
- (a) Details of the classification shall be made public by advertising and by notifying all local authorities and other persons responsible for discharging pollutants and all bodies considered by the Council to have a substantial interest in the classification;
 - (b) Every existing outfall from which pollutants are directly or indirectly discharged into the waters to which the classification relates shall be registered in accordance with these regulations;
 - (c) Every person proposing to establish a new outfall after a final classification has been made shall apply for registration of the proposed outfall in accordance with these regulations.

10. Every application for the registration of an outfall and for the issue of a permit in respect thereof shall be made to the Council through the Medical Officer of Health on a form provided for the purpose by the Council. Every such application concerning an existing outfall shall be made within three months after the date of the public notification of the final classification.

11. No pollutant shall be discharged from any registered outfall except pursuant to a permit issued by the Council under these regulations.

12. (1) The Council, after duly considering an application for a permit to discharge any pollutant into any classified waters, may refuse the permit, or grant the permit subject to such terms and conditions as it considers necessary for the maintenance of the water quality requirements specified in these regulations in respect of waters of that class.

(2) When considering any such application the Council shall have regard to the effect of other discharges for which permits have been or may be issued on the waters that will be affected by the discharge in respect of which the permit is sought.

(3) Where an application for a permit relates to an outfall from which pollutants are already being discharged, the Council, in its absolute discretion, may grant a temporary permit authorising the continuation of the discharge subject to such terms and conditions (if any) as may be prescribed in the temporary permit. Any such temporary permit shall cease to have effect when the application is finally dealt with by the Council under subclause (1) hereof.

13. (1) Every person, being the owner or user of an outfall in respect of which a permit is required under these regulations, who discharges or permits the discharge of any pollutant from the outfall otherwise than pursuant to the authority and in conformity with the terms of a permit issued under these regulations commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred pounds, and, if the offence is a continuing one, to a further fine not exceeding ten pounds for every day during which the offence has continued.

(2) Every person, being the owner or user of an outfall in respect of which a permit is issued, shall advise the Council if at any time it is proposed to discharge a volume of waste larger than, or waste of a character different from, that stated in the permit.

14. (1) Every person who causes or knowingly permits any chemical, metallic, or organic wastes, or any unsightly or odorous litter or refuse to enter any classified waters other than by way of a registered outfall commits an offence and shall be liable on summary conviction to a fine not exceeding £100, and, if the offence is a continuing one, to a further fine not exceeding £10 for every day during which the offence has continued.

(2) For the purposes of subclause (1) of this regulation a person shall be deemed to cause matter to enter waters if he places it or causes it to be placed in a position where it is liable to fall, or descend, or be washed, or to percolate into, or be carried by wind, tide, or current into the waters.

15. Where for the purposes of these regulations it is necessary to take samples of waters, the samples shall be taken in such manner and in such places as may be required or approved by the Council, and all analyses of samples shall be made in accordance with procedures acceptable to the Council.

16. (1) Every permit under these regulations shall remain in force until it is revoked.

(2) The Council may amend or revoke any of the terms and conditions of a permit or add any new terms and conditions which in its opinion are necessary in the public interest:

Provided that if the terms and conditions imposed in any permit have been complied with, no new or altered terms or conditions shall, without the consent of the holder, be imposed for a period of three years after the date of the issue of the permit.

(3) The Council shall give to the holder of the permit and to every other person who in its opinion is likely to be affected three months' notice of its intention to vary or revoke a permit.

17. The Council, if it is satisfied after due inquiry that the holder of a permit under these regulations has not complied with any of the terms and conditions of a permit, may vary or revoke the permit.

18. Any permit under these regulations may be transferred to any person.

19. Every person, being the owner or user of a registered outfall in respect of which a permit is required under these regulations, shall keep such records as may reasonably be required by the Council by notice in writing addressed to that person.

20. (1) Every applicant for a permit or person to whom a permit is granted, if he is dissatisfied with any decision of the Council relating to a refusal to grant a permit, or the conditions on which a permit is granted, or any variation of those conditions, or any revocation of a permit, and every person, authority, or body notified under paragraph (a) of regulation 9 hereof dissatisfied with any decision of the Council relating to the classification to which the notification relates, may, within a period of three months after being notified of the decision of the Council, give notice of appeal to the Secretary of the Council.

(2) Upon receipt of notice of appeal the Secretary of the Council shall forthwith inform the Minister, who shall thereupon take all steps necessary for the constitution of an Appeal Tribunal consisting of a Magistrate and two assessors.

(3) The Appeal Tribunal so constituted shall as soon as practicable hear the appeal; and may confirm or vary or cancel the decision of the Council, or may make such other order as the case may require.

(4) On any appeal under this regulation the decision of the Appeal Tribunal shall be final and conclusive.

(5) On any appeal under this regulation the Appeal Tribunal shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and all the provisions of that Act shall apply accordingly.

SCHEDULES

FIRST SCHEDULE

Reg. 5 (5) (a)

REQUIREMENTS FOR CLASS A WATERS

No sewage, industrial waste, or other polluting discharges shall be permitted to enter any Class A waters.

SECOND SCHEDULE

Reg. 5 (5) (b)

REQUIREMENTS FOR CLASS B WATERS

THE quality of Class B waters shall be maintained within the following limits:

- (a) The temperature of the waters shall not be raised above 75 degrees Fahrenheit, or (if the temperature of the waters exceeds 70 degrees Fahrenheit in their natural condition) shall not be raised by more than 5 degrees Fahrenheit above the natural temperature of the waters:
- (b) The acidity or alkalinity of the waters as measured by the pH shall be kept within the range of 6.0 to 8.5:
- (c) The waters shall not be tainted so as to make them unpalatable, nor contain toxic substances to the extent that they are unsafe for consumption by humans or farm animals, nor have their natural colour affected to a conspicuous extent:
- (d) The oxygen content in solution in the waters shall not be reduced below 6 parts per million:
- (e) The coliform bacteria content of the waters shall not consistently exceed 5,000 per 100 millilitres.

All discharges into Class B waters shall be substantially free from suspended solids, grease, and oil.

THIRD SCHEDULE

Reg. 5 (5) (c)

REQUIREMENTS FOR CLASS C WATERS

THE quality of Class C waters shall be maintained within the following limits:

- (a) The temperature of the waters shall not be raised above 75 degrees Fahrenheit or (if the temperature of the waters exceeds 70 degrees Fahrenheit in their natural condition) shall not be raised by more than 5 degrees Fahrenheit above the natural temperature of the waters:
- (b) The acidity or alkalinity of the waters as measured by the pH shall be kept within the range of 6.0 to 8.5:
- (c) The waters shall not contain substances toxic or harmful to humans, nor be tainted so as to make them unpalatable, nor contain toxic substances to the extent that they are unsafe for consumption by farm animals, nor have their natural colour affected to a conspicuous extent:
- (d) The oxygen content in solution in the waters shall not be reduced below 6 parts per million:
- (e) The coliform bacteria content of the waters shall not consistently exceed 1,000 per 100 millilitres.

All discharges into Class C waters shall be substantially free from suspended solids, grease, and oil.

FOURTH SCHEDULE

Reg. 5 (5) (d)

REQUIREMENTS FOR CLASS D WATERS

THE quality of Class D waters shall be maintained within the following limits:

- (a) The temperature of the waters shall not be raised above 75 degrees Fahrenheit, or (if the temperature of the waters exceeds 70 degrees Fahrenheit in their natural condition) shall not be raised by more than 5 degrees Fahrenheit above the natural temperature of the waters:
- (b) The acidity or alkalinity of the waters as measured by the pH shall be kept within the range of 6.0 to 8.5:
- (c) The waters shall not be tainted so as to make them unpalatable, nor contain toxic substances to the extent that they are unsafe for consumption by farm animals, nor have their natural colour affected to a conspicuous extent:
- (d) The oxygen content in solution in the waters shall not be reduced below 5 parts per million.

All discharges into Class D waters shall be substantially free from suspended solids, grease, and oil.

FIFTH SCHEDULE

Reg. 5 (5) (e)

REQUIREMENTS FOR CLASS SA WATERS

THE quality of Class SA waters shall be maintained within the following limits:

- (a) There shall be no destruction of normal aquatic life by reason of a concentration of toxic substances or of altered acidity or alkalinity as measured by the pH, or of rise in temperature caused by the pollutant:
- (b) There shall be no fouling of fishing grounds:
- (c) The coliform bacteria content of the waters shall not consistently exceed 50 per 100 millilitres:
- (d) The waters shall not have their natural colour affected to a conspicuous extent nor give off an offensive smell.

All discharges into Class SA waters shall be substantially free from suspended solids, grease, and oil.

SIXTH SCHEDULE

Reg. 5 (5) (f)

REQUIREMENTS FOR CLASS SB WATERS

THE quality of Class SB waters shall be maintained within the following limits:

- (a) There shall be no substances toxic or harmful to humans:
- (b) There shall be no destruction of normal aquatic life by reason of a concentration of toxic substances, or of altered acidity or alkalinity as measured by the pH, or of rise in temperature caused by the pollutant:
- (c) There shall be no fouling of fishing grounds:
- (d) The coliform bacteria content of the waters shall not consistently exceed 1,000 per 100 millilitres:
- (e) The waters shall not have their natural colour affected to a conspicuous extent nor give off an offensive smell.

All discharges into Class SB waters shall be substantially free from suspended solids, grease, and oil.

SEVENTH SCHEDULE

Reg. 5 (5) (g)

REQUIREMENTS OF CLASS SC WATERS

THE quality of Class SC waters shall be maintained within the following limits:

- (a) There shall be no destruction of normal aquatic life by reason of a concentration of toxic substances, or of altered acidity or alkalinity as measured by the pH, or of rise in temperature caused by the pollutant:
- (b) There shall be no fouling of fishing grounds:
- (c) The temperature of the waters shall not be raised above 80 degrees Fahrenheit:
- (d) The acidity or alkalinity of the waters as measured by the pH shall be kept within the range 6-9:
- (e) The waters shall not have their natural colour affected to a conspicuous extent nor give off an offensive smell.

All discharges into Class SC waters shall be substantially free from suspended solids, grease and oil.

EIGHTH SCHEDULE

Reg. 5 (5) (h)

REQUIREMENTS FOR CLASS SD WATERS

THE quality of Class SD waters shall be maintained within the following limits:

- (a) There shall be no destruction of normal aquatic life by reason of a concentration of toxic substances, or of altered acidity or alkalinity as measured by the pH, or of rise in temperature caused by the pollutant:
- (b) There shall be no fouling of fishing grounds.

All discharges into Class SD waters shall be substantially free from suspended solids, grease, and oil.

T. J. SHERRARD,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations are made under the Waters Pollution Act 1953, and make provision for the classification of waters for pollution purposes. Outfalls where pollutants are discharged into classified waters must be registered, permits for the discharges must be obtained, and specified standards must be maintained in respect of the various classes of waters.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 28 February 1963.

These regulations are administered in the Marine Department.