
STATUTORY INSTRUMENTS

2019 No. 1259

**The Isles of Scilly (Application
of Water Legislation) Order 2019**

Application of the Water Act 1989

3.—(1) The following provisions of the Water Act 1989 apply to the Isles of Scilly as they apply to the rest of England—

- (a) section 4;
- (b) section 189;
- (c) section 192;
- (d) section 194;
- (e) Schedule 2.

This is subject to the following modifications.

(2) Section 4 is to be read as if—

(a) in subsection (1)—

- (i) paragraph (a) were omitted;
- (ii) for paragraph (b) there were substituted—

“(b) any scheme under Schedule 2 to this Act for the transfer of any property, rights and liabilities of the Council of the Isles of Scilly to a successor company shall come into force.”;

(b) subsections (2) to (6) were omitted.

(3) Section 189(1) is to be read as if for the definition of “successor company” there were substituted—

““successor company” means a relevant undertaker within the meaning of section 219(1) of the Water Industry Act 1991;”.

(4) Schedule 2 is to be read in accordance with paragraphs (5) to (8).

(5) Paragraph 1 is to be read as if—

(a) for sub-paragraph (1) there were substituted—

“(1) The Council of the Isles of Scilly shall make a scheme under this Schedule for the transfer of property, rights and liabilities of the Council of the Isles of Scilly to the successor company.

(1A) The property, rights and liabilities to be transferred by the scheme under sub-paragraph (1) are such of the property, rights and liabilities of the Council as are required for, or as otherwise relate to, the supply of water or the provision of sewerage services in the Isles of Scilly.”;

(b) in sub-paragraph (2), for “a water authority” there were substituted “ the Council of the Isles of Scilly ”;

(c) for sub-paragraphs (4) and (5) there were substituted—

“(4) If—

- (a) the Council of the Isles of Scilly fails, before such time as may be notified by the Secretary of State to the Council as the latest time for the submission of a scheme under this Schedule, to submit such a scheme for the approval of the Secretary of State; or
- (b) the Secretary of State decides not to approve a scheme that has been submitted by the Council of the Isles of Scilly (either with or without modifications),

the Secretary of State may make a scheme under this Schedule for the transfer of the property, rights and liabilities mentioned in paragraph (1A) to the successor company.

(5) If—

- (a) at any time after a scheme under this Schedule has come into force in relation to the property, rights and liabilities of the Council of the Isles of Scilly, the Secretary of State considers it appropriate to do so; and
- (b) the successor company has consented to the making of the order,

the Secretary of State may by order provide that that scheme shall for all purposes be deemed to have come into force with such modifications as may be specified in the order.”;

(d) sub-paragraph (7) were omitted;

(e) in sub-paragraph (8), for “a water authority” there were substituted “ the Council of the Isles of Scilly ”.

(6) Paragraph 2 is to be read as if—

(a) for sub-paragraphs (1) to (3) there were substituted—

“(1) Where a scheme under this Schedule comes into force on the transfer date, this paragraph shall have effect on that date so as, in accordance with the scheme's provisions and without further assurance, to transfer to the successor company such of the property, rights and liabilities as are allocated to the successor company in accordance with the scheme.

(2) For the purpose of making the transfer of any property, rights or liabilities to the successor company the provisions of a scheme under this Schedule may allocate to the successor company such property, rights and liabilities to which the Council of the Isles of Scilly may become entitled or subject after the making of the scheme and before the transfer date as may be described in the scheme.

(3) The property, rights and liabilities of the Council of the Isles of Scilly that shall be capable of being transferred in accordance with a scheme under this Schedule shall include—

- (a) property, rights and liabilities that would not otherwise be capable of being transferred or assigned by the Council of the Isles of Scilly;
- (b) property situated anywhere in the United Kingdom or elsewhere;
- (c) rights and liabilities under enactments;
- (d) rights and liabilities under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom.”;

(b) sub-paragraph (4) were omitted;

(c) in sub-paragraph (6), for “a water authority at the passing of this Act” there were substituted “ the Council of the Isles of Scilly on 1st November 2019 ”.

(7) Paragraph 3(2) is to be read as if—

- (a) in paragraph (a), for “the water authority” there were substituted “ the Council of the Isles of Scilly ”;
 - (b) in paragraphs (b) to (d), for “a water authority”, in each place it occurs, there were substituted “ the Council of the Isles of Scilly ”;
 - (c) in paragraph (d), for “the water authority's successor company or the Authority” there were substituted “ the successor company ”;
 - (d) for paragraph (e) there were substituted—
 - “(e) that the effect of any transfer under the scheme in relation to contracts of employment with the Council of the Isles of Scilly is not to be to terminate any of those contracts but is to be that periods of employment with the Council are to count for all purposes as periods of employment with the successor company;”;
 - (e) paragraphs (f) and (g) were omitted.
- (8) Paragraph 4 is to be read as if—
- (a) in the heading, for “water authorities” there were substituted “ the Council of the Isles of Scilly ”;
 - (b) for sub-paragraphs (1) to (6) there were substituted—
 - “(1) A scheme under this Schedule may provide for the imposition of duties on the Council of the Isles of Scilly from which transfers are made by virtue of the scheme, and on the successor company, to take all such steps as may be requisite to secure that the vesting in the successor company, by virtue of the scheme, of any foreign property, right or liability is effective under the relevant foreign law.
 - (2) The provisions of a scheme under this Schedule may require the Council of the Isles of Scilly to comply with any directions of the successor company in performing any duty imposed on the Council by virtue of a provision included in the scheme under sub-paragraph (1).
 - (3) A scheme under this Schedule may provide that, until the vesting of any foreign property, right or liability of the Council of the Isles of Scilly in the successor company is effective under the relevant foreign law, it shall be the duty of the Council to hold that property or right for the benefit of, or to discharge that liability on behalf of, the successor company.
 - (4) Nothing in any provision included by virtue of this paragraph in a scheme under this Schedule shall be taken as prejudicing the effect under the law of any part of the United Kingdom of the vesting by virtue of the scheme in the successor company, of any foreign property, right or liability.
 - (5) The Council of the Isles of Scilly shall have all such powers as may be requisite for the performance of any duty imposed on it by any provision included by virtue of this paragraph in a scheme under this Schedule; but such a scheme may require the successor company to act on behalf of the Council (so far as possible) for the purposes of, or in connection with, the performance of any such duty.
 - (6) A scheme under this Schedule may provide that any foreign property, rights or liabilities that are acquired or incurred by the Council of the Isles of Scilly after the scheme comes into force are immediately to become property, rights or liabilities of the successor company; and such a scheme may make the same provision in relation to any such property, rights or liabilities as can be made, by virtue of the preceding provisions of this paragraph, in relation to foreign property, rights and liabilities vested in the Council of the Isles of Scilly when the scheme comes into force.”;
 - (c) in sub-paragraph (8)—

Changes to legislation: There are currently no known outstanding effects for the The Isles of Scilly (Application of Water Legislation) Order 2019, Section 3. (See end of Document for details)

- (i) for “a water authority” there were substituted “ the Council of the Isles of Scilly ”;
- (ii) for “in such proportions” there were substituted “ to such extent ”;
- (iii) for the words from “the water authority's” to the end, there were substituted “ the successor company ”.

Commencement Information

II [Art. 3](#) in force at 1.11.2019, see [art. 2\(1\)](#)

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