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STATUTORY INSTRUMENTS

2020 No. 214

WATER, ENGLAND

**The Isles of Scilly (Application of Water Legislation) Order
2020**

Made - - - - at 10.30 a.m. on 4th March 2020

Laid before Parliament at 5.00 p.m. on 4th March 2020

Coming into force in accordance with article 2

The Secretary of State makes this Order in exercise of the powers conferred by the provisions of the Acts listed in the Schedule.

The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to the environment(b).

The Secretary of State has consulted the Council of the Isles of Scilly in accordance with section 222(2) of the Water Industry Act 1991(c), section 224(2) of the Water Resources Act 1991(d) and section 117(2) of the Environment Act 1995(e).

The Secretary of State has consulted the Environment Agency in accordance with section 97(3) of the Water Resources Act 1991.

The Secretary of State has consulted in accordance with Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety(f).

Citation and application

1.—(1) This Order may be cited as the Isles of Scilly (Application of Water Legislation) Order 2020.

(2) This Order applies to the Isles of Scilly.

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- (a) 1972 c. 68. For relevant amendments to this Act, see the Schedule.
(b) S.I. 2008/301.
(c) 1991 c. 56. For relevant amendments to this Act, see the Schedule.
(d) 1991 c. 57. For relevant amendments to this Act, see the Schedule.
(e) 1995 c. 25. For relevant amendments to this Act, see the Schedule.
(f) OJ No. L 31, 1.2.2002, p. 1.

Commencement

2.—(1) This Order comes into force on 27th March 2020, subject as follows.

(2) Article 3(1)(b), so far as it applies section 24 of the Water Resources Act 1991 to the Isles of Scilly, comes into force on 1st October 2021.

(3) Article 5(l), (p) and (s) comes into force on 1st April 2023.

Application of the Water Resources Act 1991

3.—(1) The following provisions of the Water Resources Act 1991(a) apply to the Isles of Scilly as they apply to the rest of England—

- (a) section 15;
- (b) Parts 2 and 3;
- (c) sections 126 to 129;
- (d) section 158;
- (e) sections 161 to 161D;
- (f) sections 169 to 174;
- (g) sections 188 to 190;
- (h) sections 191A to 192;
- (i) sections 197 and 198;
- (j) sections 200 to 207;
- (k) section 209;
- (l) sections 216 to 225;
- (m) Schedules 5 and 6;
- (n) Schedules 8 to 11;
- (o) Schedule 20;
- (p) Schedule 24.

This is subject to the modification in paragraph (2).

(2) Section 221(1) is to be read as if, in the definition of “local authority”, at the end there were inserted “or the Council of the Isles of Scilly”.

Application of the Environment Act 1995

4. The following provisions of the Environment Act 1995(b) apply to the Isles of Scilly as they apply to the rest of England—

- (a) sections 4 and 5;
- (b) section 6(1) and (2);
- (c) sections 7 to 10;
- (d) sections 37 to 41;
- (e) sections 42 and 43;
- (f) sections 53, 54 and 56;
- (g) sections 108 and 109;
- (h) sections 110 to 115;
- (i) sections 122 to 125;

(a) This Act was last amended by S.I. 2019/558.

(b) This Act was last amended by S.I. 2019/1099.

- (j) Schedule 18;
- (k) Schedule 20.

Application of secondary legislation

- 5.** The following instruments apply to the Isles of Scilly as they apply to the rest of England—
- (a) the Trade Effluents (Prescribed Processes and Substances) Regulations 1992**(a)**;
 - (b) the Spray Irrigation (Definition) Order 1992**(b)**;
 - (c) the Environmental Licences (Suspension and Revocation) Regulations 1996**(c)**;
 - (d) the Water (Compulsory Works Powers) (Notice) Regulations 1999**(d)**;
 - (e) the Anti-Pollution Works Regulations 1999**(e)**;
 - (f) the Water Supply (Water Fittings) Regulations 1999**(f)**;
 - (g) the Water Industry (Prescribed Conditions) Regulations 1999**(g)**;
 - (h) the Control of Pollution (Oil Storage) (England) Regulations 2001**(h)**;
 - (i) the Water Mergers (Modification of Enactments) Regulations 2004**(i)**;
 - (j) the Water Mergers (Determination of Turnover) Regulations 2004**(j)**;
 - (k) the Water Industry (Determination of Turnover for Penalties) Order 2005**(k)**;
 - (l) the Drought Plan Regulations 2005**(l)**;
 - (m) the Water Supply (Exceptions from Supply System Prohibitions) Regulations 2005**(m)**;
 - (n) the Water Supply Licence (Prescribed Water Fittings Requirements) Regulations 2005**(n)**;
 - (o) the Water Resources (Abstraction and Impounding) Regulations 2006**(o)**, except regulations 29 and 30;
 - (p) the Water Resources Management Plan Regulations 2007**(p)**;
 - (q) the Water (Prevention of Pollution) (Code of Good Agricultural Practice) (England) Order 2009**(q)**;
 - (r) the Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations 2010**(r)**;
 - (s) the Water Use (Temporary Bans) Order 2010**(s)**;
 - (t) the Water Industry (Charges) (Vulnerable Groups) (Consolidation) Regulations 2015**(t)**;
 - (u) the Water Supply (Water Quality) Regulations 2016**(u)**;
 - (v) the Water Quality and Supply (Fees) Order 2016**(a)**;

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- (a) S.I. 1992/339.
 - (b) S.I. 1992/1096.
 - (c) S.I. 1996/508, amended by S.I. 2013/755.
 - (d) S.I. 1999/221.
 - (e) S.I. 1999/1006, last amended by S.I. 2013/755.
 - (f) S.I. 1999/1408, last amended by S.I. 2019/558.
 - (g) S.I. 1999/3442, last amended by S.I. 2013/755.
 - (h) S.I. 2001/2954, last amended by S.I. 2016/1154.
 - (i) S.I. 2004/3202, last amended by S.I. 2019/1245.
 - (j) S.I. 2004/3206, last amended by S.I. 2014/549.
 - (k) S.I. 2005/477, last amended by S.I. 2017/506.
 - (l) S.I. 2005/1905, last amended by S.I. 2013/755.
 - (m) S.I. 2005/3075, last amended by S.I. 2017/506.
 - (n) S.I. 2005/3077.
 - (o) S.I. 2006/641, last amended by S.I. 2017/1047.
 - (p) S.I. 2007/727, amended by S.I. 2013/755.
 - (q) S.I. 2009/46.
 - (r) S.I. 2010 639, last amended by S.I. 2019/558.
 - (s) S.I. 2010/2231.
 - (t) S.I. 2015/365.
 - (u) S.I. 2016/214, last amended by S.I. 2019/558.

- (w) the Private Water Supplies (England) Regulations 2016**(b)**;
- (x) the Sewerage Services (Exception from Sewerage System Prohibition) (England) Regulations 2017**(c)**;
- (y) the Water Industry Designated Codes (Appeals to the Competition and Markets Authority) Regulations 2017**(d)**;
- (z) the Water Infrastructure Adoption (Prescribed Water Fittings Requirements) (England) Regulations 2017**(e)**;
- (aa) the Water Abstraction and Impounding (Exemptions) Regulations 2017**(f)**.

Amendments to the Isles of Scilly (Application of Water Legislation) Order 2019

6.—(1) Article 4 of the Isles of Scilly (Application of Water Legislation) Order 2019**(g)** is amended as follows.

(2) For paragraph (2)(c) substitute—

“(c) for subsection (2) there were substituted—

“(2) Subject to subsections (3) to (6)—

(a) the Secretary of State; and

(b) with the consent of or in accordance with a general authorisation given by the Secretary of State, the Authority,

shall have power, by notice to a company holding an appointment under this Chapter, to terminate the appointment or to vary the area to which it relates.

This subsection does not apply in the case of the variation of an area if the power under subsection (2A) is exercisable in relation to that variation.

(2A) Subject to subsections (3) to (6), where there is no existing relevant undertaker for the Isles of Scilly—

(a) the Secretary of State; and

(b) with the consent of or in accordance with a general authorisation given by the Secretary of State, the Authority,

shall have power, by notice to a company holding an appointment under this Chapter, to vary the area to which it relates to include the Isles of Scilly.

In this Act, “original Isles of Scilly variation” means a variation made under this subsection.”.”.

(3) After paragraph (8) insert—

“(8A) Section 102(2) is to be read as if at the end there were inserted—

“; but nothing in this subsection shall confer any right to make an application under this subsection before 1st April 2025”.”.

(4) For paragraph (9) substitute—

“(9) Section 105(1)(b) is to be read as if at the end there were inserted “following an application under section 102(2)”.”.

(a) S.I. 2016/303, amended by S.I. 2016/614.
 (b) S.I. 2016/618, last amended by S.I. 2019/558.
 (c) S.I. 2017/244.
 (d) S.I. 2017/447.
 (e) S.I. 2017/841.
 (f) S.I. 2017/1044, last amended by S.I. 2019/558.
 (g) S.I. 2019/1259.

SCHEDULE Preamble
Enabling powers

Act and relevant provision	Notes
The European Communities Act 1972	1972 c. 68. This Act was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) with effect from exit day, but saved with modifications until IP completion day by section 1A of that Act (as inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c. 1)).
Section 2(2)	Section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).
The Water Industry Act 1991	1991 c. 56. This Act was applied to the Isles of Scilly, with modifications, by S.I.2019/1259.
Section 22A(11)	Section 22A was inserted by section 48(1) of the Water Act 2003 (c. 37). Subsection (11) was amended by paragraph 31 of Schedule 7 to the Water Act 2014 (c. 21).
Section 33(4), (5) and (6)	Section 33 was substituted by section 70(1) of the Enterprise Act 2002 (c. 40). Subsection (6) was amended by S.I. 2014/892.
Section 37B(3),(5), (6) and (8)	Section 37B was inserted by section 62 of the Water Act 2003.
Section 39B(5)	Section 39B was inserted by section 63 of the Water Act 2003.
Section 51B(6)	Section 51B was substituted by section 10 of the Water Act 2014.
Section 66A(6)	Section 66A was substituted by paragraph 1 of Schedule 2 to the Water Act 2014.
Section 66I(3)	Section 66I was inserted by paragraph 3 of Schedule 4 to the Water Act 2003. Section 66I(1), which subsection (3) relates to, was amended by paragraph 9 of Schedule 2 to the Water Act 2014.
Section 66J(3)	Section 66J was inserted by paragraph 3 of Schedule 4 to the Water Act 2003.
Section 67	
Section 69	Section 69 was amended by paragraph 19 of Schedule 8 to the Water Act 2003 and paragraph 68 of Schedule 7 to the Water Act 2014.
Section 74	Section 74 was amended by paragraph 23 of Schedule 8 to the Water Act 2003 and

	paragraph 71 of Schedule 7 to the Water Act 2014.
Section 76A(2)	Section 76A was substituted by section 36 of the Flood and Water Management Act 2010 (c. 29).
Section 77(3) and (4)	
Section 86ZA(1) and (4)	Section 86ZA was inserted by section 40 of the Water Act 2014.
Section 117P(4)	Section 117P was inserted by Schedule 4 to the Water Act 2014.
Section 138(1)	Section 138(1) was amended by S.I. 2000/1973. See section 219(1) for the definition of “prescribed”.
Section 143A	Section 143A was inserted by section 5 of the Water Industry Act 1999 (c. 9).
Section 144A(5)(b)	Section 144A was inserted by section 6 of the Water Industry Act 1999. See section 219(1) for the definition of “prescribed”.
Section 144B(1)(c)	Section 144B was inserted by section 7 of the Water Industry Act 1999. See section 219(1) for the definition of “prescribed”.
Section 207A	Section 207A was inserted by section 37(2) of the Water Act 2014.
Section 207C	Section 207C was inserted by section 37(2) of the Water Act 2014.
Section 213(2) to (2B)	Section 213 was amended by section 36 of the Water Act 2003, paragraphs 2 and 119 of Schedule 7 to the Water Act 2014 and sections 52 and 56 of the Competition and Service (Utilities) Act 1992 (c. 43).
Section 219(1)	
Section 222(2)	Section 222 was substituted by section 118(4) of the Environment Act 1995 (c. 25).
Paragraphs 1 and 2 of Schedule 4ZA	Schedule 4ZA was inserted by paragraph 1 of Schedule 6 to the Enterprise Act 2002.
Paragraph 1(3)(g) of Schedule 11	See section 219(1) for the definition of “prescribed”.
Paragraphs 1 to 5 of Schedule 16	Paragraphs 1 to 5 of Schedule 16 were inserted by paragraph 1 of Schedule 6 to the Water Act 2014.
The Water Resources Act 1991	1991 c. 57
Section 25A(7)(a) (including as applied by section 4(3) of the Water Act 2003)	Section 25A was inserted by section 30 of the Water Act 2003.
Section 33A	Section 33A was inserted by section 9 of the Water Act 2003.
Section 34	Section 34 was amended by paragraph 1 of Schedule 24 to the Environment Act 1995, paragraph 2 of Schedule 7 to the Water Act 2003 and S.I. 2013/755.
Section 36A	Section 36A was inserted by section 13(1) of the Water Act 2003 and amended by S.I. 2013/755.
Section 37(4) and (6) (including as applied by section 51(3) of the Water Act 2003)	
Section 37A (including as applied by section	Section 37A was substituted by section 14(2) of

51(3) of the Water Act 2003)	the Water Act 2003 and amended by S.I. 2013/755.
Section 43(2)(a) and (3) (including as applied by section 51(3) of the Water Act 2003)	
Section 45	Section 45 was amended by paragraph 1 of Schedule 24 to the Environment Act 1995, section 13(3) of the Water Act 2003 and S.I. 2013/755.
Section 51(1C)(b) and (1D)	Section 51(1C) and (1D) were inserted by section 21(3) of the Water Act 2003 and subsection (1C) was amended by S.I. 2013/755.
Section 52(4)	Section 52(4) was amended by section 22(3) of the Water Act 2003.
Section 55(4)	Section 55(4) was amended by S.I. 2013/755.
Section 59(1)	
Section 64	Section 64 was amended by section 2 of the Water Act 2003 and S.I. 2013/755.
Section 72(5)	See section 221(1) for the definition of “the Ministers”. Functions exercisable by the Minister of Agriculture, Fisheries and Food and the Secretary of State jointly were transferred to the Secretary of State by article 2 of S.I. 2002/794.
Section 92	Section 92 was amended by paragraph 144 of Schedule 22 to the Environment Act 1995, and S.I. 2010/675 and 2013/755.
Section 97(1)	Section 97(3), which relates to subsection (1), was amended by S.I. 2013/755. See section 221(1) for the definition of “the Ministers”. Functions exercisable by the Minister of Agriculture, Fisheries and Food and the Secretary of State jointly were transferred to the Secretary of State by article 2 of S.I. 2002/794.
Section 161AA(3)	Section 161AA was inserted by S.I. 2009/3104. See section 161AA(5) for the definition of “appropriate national authority”.
Section 161B(5), (6) and (7) (including as applied by section 25B and section 4(3) of the Water Act 2003)	Section 161B(6) was substituted by S.I. 2007/3538. See section 161B(7) for the definition of “prescribed”.
Section 161C(3) and (4) (as applied by section 25B and 4(3) of the Water Act 2003)	
Section 189	Section 189 was amended by S.I. 2013/755.
Section 190(1)	Section 190(1) was amended by paragraph 169 of Schedule 22 to the Environment Act 1995, and S.I. 2010/675 and 2013/755.
Section 219(2)	Section 219(2) was amended by paragraph 1 of Schedule 24 to the Environment Act 1995 and paragraph 28 of Schedule 7 to the Water Act 2003.
Section 224(2)	Section 224 was substituted by section 118(5) of the Environment Act 1995.
Paragraph 1(3)(f) of Schedule 19	See section 221(1) for the definition of “prescribed”.
The Environment Act 1995	1995 c. 25
Section 41(6) and (10)	Section 41(6) was amended by S.I. 2013/755.

Section 117(2) and (3)
The Water Act 2003
Section 3(5)

2003 c. 37

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies, with various modifications, certain primary and secondary legislation to the Isles of Scilly (see articles 3 to 5). This Order also amends the Isles of Scilly (Application of Water Legislation) Order 2019 (S.I. 2019/1259) (see article 6).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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