

1990 No. 524

WATER, ENGLAND AND WALES

**The Isles of Scilly (Water and Sewerage)
(Miscellaneous Provisions) Order 1990**

<i>Made</i> - - - -	<i>8th March 1990</i>
<i>Laid before Parliament</i>	<i>9th March 1990</i>
<i>Coming into force</i> -	<i>1st April 1990</i>

The Secretary of State, on the application of the Council of the Isles of Scilly, in exercise of the powers conferred on him by section 193 of the Water Act 1989(a) and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Isles of Scilly (Water and Sewerage) (Miscellaneous Provisions) Order 1990 and shall come into force on 1st April 1990.

Application of provisions of Water Act 1989

2. The provisions of the Water Act 1989 mentioned in the Schedule to this Order shall apply to the Isles of Scilly subject to the modifications set out in that Schedule.

Signed by authority of the Secretary of State
for the Environment
8th March 1990

David Trippier
Minister of State,
Department of the Environment

SCHEDULE

Article 2

1. Any reference to a water undertaker or a sewerage undertaker in the provisions of the Water Act 1989 mentioned in the first column of the Table set out in paragraph 2 below shall be construed as a reference to the Council of the Isles of Scilly but only in relation to the exercise of functions conferred on it by subsection (1) (water supply) or, as the case may be, subsection (2) (sewerage) of section 181(b) of the Local Government Act 1972(c) and any reference in those provisions to the functions of a water undertaker or a sewerage undertaker shall be construed accordingly.

2. The provisions of the Water Act 1989 mentioned in the first column of the following Table shall apply in relation to the Isles of Scilly subject to the modifications (if any) set out in the second column thereof—

(a) 1989 c.15.

(b) For relevant amendments see S.I. 1978/1844 and paragraph 14 of Schedule 6 to the Building Act 1984 (c.55). The provisions applied by section 181(1) and (2) were not affected in the case of the Isles of Scilly by the Water Act 1973 (c.37)—see section 35 of the 1973 Act.

(c) 1972 c.70.

TABLE

<i>Provisions of Water Act 1989 applied</i>	<i>Modifications</i>
Section 49.	<p>In subsection (1)–</p> <ul style="list-style-type: none"> (a) for “under section 46 above” substitute “under section 27 of the 1945 Act”; (b) in sub-paragraph (i) of paragraph (b) after “charges” insert “or a water rate”. <p>In subsection (4) after “charges” in the first two places insert “or water rate” and for “those charges” substitute “the charges or water rate”.</p> <p>In subsection (6) after “charges are” insert “or water rate is”.</p> <p>Omit subsection (8).</p> <p>In subsection (9) omit in paragraph (a) “, section 63 below”, omit in paragraph (b) “, that section” and at the end of that paragraph “or” and omit paragraph (c).</p>
Section 64.	<p>In subsection (1) omit “Without prejudice to the powers conferred by Part IV of this Act.”.</p> <p>In subsection (2)–</p> <ul style="list-style-type: none"> (a) in sub-paragraph (i) of paragraph (a) for “any provision of this Chapter” substitute “section 49 above” and omit “or to carry out any works which it is authorised to carry out under section 50(4), 51(6) or 63 above”; (b) omit paragraph (c). <p>Omit subsection (3).</p> <p>In subsection (4) omit paragraph (a) and in paragraph (b) for “the appropriate notice” substitute “seven days’ notice”.</p> <p>Omit subsection (5).</p>
Section 66.	<p>In subsection (1)–</p> <ul style="list-style-type: none"> (a) in the definition of “consumer” after “charges” insert “or a water rate”; (b) omit the words from ““private supply”” to the end of that subsection. <p>Omit subsection (2).</p>
Section 75.	<p>In subsection (6) for the words from “, Part V” to the end of that subsection substitute “and Part V of the Public Health Act 1961”.</p> <p>After subsection (6) insert the following subsection–</p> <p>“(7) Section 37 of, and sections 30 and 40(a) of Schedule 3 to, the 1945 Act shall have effect as if any reference to a water rate included a reference to a charge under this Chapter for the supply of water for domestic purposes.”.</p>
Sections 76 to 78.	None.
Section 79.	Omit subsection (4).

TABLE (continued)

<i>Provisions of Water Act 1989 applied</i>	<i>Modifications</i>
Section 80.	None.
Section 81.	In paragraph (a) of subsection (1) omit from "or taken" to the end of that paragraph. Omit subsection (4).
Section 131.	In subsection (2) for the words from "(a) by the Authority" to the end of that subsection substitute "by the Council of the Isles of Scilly ("the Council")". Omit subsection (3). In subsection (4)- <ul style="list-style-type: none"> (a) omit "on the application of a water undertaker"; (b) in paragraphs (a) and (c) for "the water undertaker" substitute "the Council (or persons authorised to do so by the Council)"; (c) in paragraph (b) for "the water undertaker" substitute "the Council"; (d) in paragraph (d) for "the Authority" in both places substitute "the Council" and for "the water undertaker" substitute "the Council or any other person"; (e) omit paragraph (e); (f) in paragraph (f) for "the water undertaker or any sewerage undertaker or" substitute "the Council or any"; (g) in paragraph (g) for "the Authority" substitute "the Council" and for the words from "the company" to the end of that paragraph substitute "the Council". <p>In subsection (5) for "a water undertaker", "the water undertaker" and "the undertaker" substitute "the Council" and for "the water undertaker's area" substitute "the Isles of Scilly".</p>
Section 132.	In subsection (2) for the words from "(a) by the Authority" to the end of that subsection substitute "by the Council". Omit subsection (3). In subsection (4) omit "on the application of a water undertaker" and in paragraphs (b) and (c) for "the water undertaker" in each place substitute "the Council". In subsection (5) for "a water undertaker", "the water undertaker" and "the undertaker" substitute "the Council" and for "the water undertaker's area" substitute "the Isles of Scilly". In subsection (6) omit the words from"; and (c)" to the end of that subsection.
Section 133.	Omit subsections (1), (3) and (4).

TABLE (continued)

<i>Provisions of Water Act 1989 applied</i>	<i>Modifications</i>
	In subsections (5) and (6) for "the Authority or a water undertaker" and "the Authority or that undertaker" in each place where they occur substitute "the Council".
	In subsection (8) for "the Authority, a water undertaker or a sewerage undertaker" and "the Authority or that undertaker" substitute "the Council".
Section 134.	None.
Section 135.	In subsection (1) omit the definitions of "compensation water" and "inland navigation" and— <ul style="list-style-type: none"> (a) for the definition of "sewage effluent" substitute "sewage effluent" includes any effluent from the sewage disposal or sewerage works of the Council but does not include surface water"; and (b) for the definition of "trade effluent" substitute "trade effluent" has the same meaning as in the Public Health (Drainage of Trade Premises) Act 1937 and Part V of the Public Health Act 1961".
Sections 174, 175 and 177.	None.
Section 178.	For subsection (1) substitute "(1) This section applies to the powers conferred by section 64 above and those conferred by paragraph 1 of Schedule 10 to this Act." <p>Omit subsection (5).</p>
Section 179.	In subsection (6) omit paragraph (a) and the words from "or the Minister" in paragraph (b) to the end of that subsection.
Section 180.	In subsections (1) and (2) for "a relevant authority" substitute "the Council". <p>Omit subsection (3).</p>
Section 182.	Omit "the Authority or" in both places and after "charge" insert "or water rate".
Section 185.	In subsection (1) omit ", and those of the Minister," and "(except in the case of regulations under section 13(1) above)". <p>In subsection (2) omit "or the Minister" in both places and paragraph (a).</p>
Section 187.	None.
Section 189.	In subsection (1)— <ul style="list-style-type: none"> (a) omit the definition of "domestic purposes"; (b) for the definition of "functions" substitute "functions", in relation to the Council of the Isles of Scilly, shall be construed in accordance with paragraph 1 of the Schedule to the Isles of Scilly (Water and

TABLE (continued)

Provisions of Water Act 1989 applied

Modifications

- Sewerage) (Miscellaneous Provisions) Order 1990”;
- (c) after the definition of “local statutory provision” insert ““main” has the same meaning as in Schedule 3 to the 1945 Act”;
 - (d) for the definition of “public sewer” substitute ““public sewer” has the same meaning as in section 343(1) of the Public Health Act 1936”;
 - (e) for the definition of “service pipe” substitute ““service pipe” has the same meaning as in Schedule 3 to the 1945 Act”;
 - (f) in the definition of “sewerage services” omit “required to be”;
 - (g) for the definition of “sewerage undertaker” substitute ““sewerage undertaker” shall be construed in accordance with paragraph 1 of the Schedule to the Isles of Scilly (Water and Sewerage) (Miscellaneous Provisions) Order 1990”;
 - (h) after the definition of “successor company” insert ““a supply of water for domestic purposes” and cognate expressions have the same meaning as in Schedule 3 to the 1945 Act”;
 - (i) for the definition of “transfer date” substitute ““transfer date” means 1st April 1990”;
 - (j) omit the definition of “water main”; and
 - (k) for the definition of “water undertaker” substitute ““water undertaker” shall be construed in accordance with paragraph 1 of the Schedule to the Isles of Scilly (Water and Sewerage) (Miscellaneous Provisions) Order 1990”.

Omit subsections (2) and (3).

Section 192.

In subsection (3) omit the words from “; or (c)” to the end of that subsection.

Schedule 10.

In paragraph 1 at the beginning insert—

“(1A) Where at any time on or after 1st April 1990 the Council of the Isles of Scilly (“the Council”) is required for the purpose of enabling it to furnish a supply of water for domestic purposes to any premises to connect to any water main or service pipe any pipe which has not previously been so connected, it may make it a condition of complying with that requirement either—

- (a) that a meter for use in determining the amount of any charges which have been or may be fixed in relation to those premises by reference to

TABLE (continued)

Provisions of Water Act 1989 applied

Modifications

volume has been installed and connected either by the Council or in accordance with specifications approved by it; or

- (b) that the plumbing of the premises is in accordance with specifications approved by the Council for the purpose of ensuring that it will be reasonably practicable for such a meter to be so installed and connected.

(1B) The power conferred on the Council by sub-paragraph (1A) above shall be exercisable in relation to any premises even if the Council has no immediate intention, when the power is exercised, of fixing charges in relation to those premises by reference to volume.

(1C) Specifications approved by the Council under sub-paragraph (1A) above may be approved in relation to particular premises or, by being published in such manner as the Council considers appropriate, in relation to premises generally or to any description of premises.

(1D) Nothing in the preceding provisions of this paragraph shall entitle the Council to require the alteration or removal of any plumbing installed before 1st April 1990."

In paragraph 1(2) for the words from "and the power conferred" to the end of that sub-paragraph substitute "and, if works are to be carried out in a street, Part XII of the Public Health Act 1936 shall apply to those works as if they were works to which section 279(1) of that Act applied."

In paragraph 1(7) for the words from "sections 45 to 51" to the end of that sub-paragraph substitute "section 27 of the 1945 Act, section 30 of Schedule 3 to that Act and section 49 of this Act."

After paragraph 1(7) insert—

"(8) Without prejudice to the power of the Council to impose a condition under sub-paragraph (1A) above in a case where the Council has exercised its power under section 42 of Schedule 3 to the 1945 Act to require the provision of a separate service pipe, nothing in that sub-paragraph shall be construed as authorising the Council to impose any such condition where it is required to connect any pipe installed under this paragraph to a main or service pipe.

(9) In this paragraph "plumbing"

includes any supply pipe within the meaning of Schedule 3 to the 1945 Act.”.

In paragraph 2(2)–

- (a) in paragraph (a) for “section 43(1)(c) or (d) of this Act” substitute “paragraph 1(1A)(a) or (b) above”;
- (b) in paragraph (b) for “section 46 of this Act” substitute “section 27 of the 1945 Act”;
- (c) in paragraph (c) for “section 50(3)(b) of this Act” substitute “section 42(4) of Schedule 3 to the 1945 Act”;

and omit the words from “except, in the case of expenses” to the end of that sub-paragraph.

In paragraph 2(5) for the words from “, Part V” to the end of that sub-paragraph substitute “and Part V of the Public Health Act 1961”.

In paragraph 3(2) omit “who uses the meter”.

Omit paragraph 4.

In paragraph 5–

- (a) for “(including another such undertaker)–” substitute “– (aa) as to the imposition of a condition under paragraph 1(1A) above”;
- (b) omit sub-paragraph (c);
- (c) for “the Director” substitute “the Secretary of State”.

Schedule 14.

In paragraph 1(2) for the Table substitute the Table set out in paragraph 3 below.

In paragraph 4 for “neither the Authority nor any water undertaker or sewerage undertaker shall” substitute “the Council shall not”.

Paragraphs 9 and 16(6), (9) and (10) of Schedule 26.

In paragraph 9 for “a water authority or statutory water company” substitute “the Council” and for “the water undertaker for the area in which those premises are situated” substitute “the Council”.

In paragraph 16–

- (a) in sub-paragraph (6) after “shall have effect” insert “in relation to the Isles of Scilly”;
- (b) in sub-paragraph (9) for the words from “any charge” to the end of that sub-paragraph substitute “any water rate or other charge under Part IV of the Public Health Act 1936”;
- (c) in sub-paragraph (10)–
 - (i) in paragraph (a) for “charges” substitute “water rates or other charges under Part IV of the Public Health Act 1936”;
 - (ii) in paragraph (b) for “section 54 of Schedule 3 to the 1945 Act” substitute “section 129 of the Public Health Act 1936”;

TABLE (continued)

<i>Provisions of Water Act 1989 applied</i>	<i>Modifications</i>
	(iii) omit "continue" and for "to be the person liable" substitute "be the person liable for charges under Chapter IV of Part II of this Act in respect of the supply of water to those premises".
Part I of Schedule 27 to the extent that it relates to the Public Health Act 1936(a), the Water Act 1945(b), the Local Government Act 1972 and the Drought Act 1976(c).	For the entries relating to the Public Health Act 1936 in the column headed "Extent of repeal" substitute— "In section 120, the words "Sections fifty-three and fifty-five of Part XII" and the words "Sections seventy-nine and eighty of Part XVI". Sections 126 to 129. Section 131. Section 134. Section 136."
	For the entries relating to the Water Act 1945 in the column headed "Extent of repeal" substitute— "Section 27(5). Section 38. In Schedule 3, sections 53, 55, 66, 69, 79 and 80."
	For the entries relating to the Local Government Act 1972(d) in the column headed "Extent of repeal" substitute "In section 181(1), the words "(e) the Drought Act 1976;"

3. The Table to be substituted for the Table set out in paragraph 1(2) of Schedule 14 to the Water Act 1989 is as follows—

Table

Orders which suspend or modify any enactment or any order or scheme made or confirmed under any enactment.	Such persons (if any) as are specified by name in the enactment, order or scheme as being persons for whose protection it was enacted or made.
Orders concerning any consent relating to the discharge of sewage effluent or trade effluent.	The person to whom the consent was given.
Orders which authorise the occupation and use of land.	Every owner, lessee and occupier of the land.
Orders which prohibit or limit the taking of water.	Every named person to whom the prohibition or limitation applies.

(a) 1936 c.49; relevant amendments were made by Schedule 4 to the Water Act 1945 (c.42).

(b) 1945 c.42.

(c) 1976 c.44.

(d) For relevant amendments see S.I. 1978/1844.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies the following provisions of the Water Act 1989 to the Isles of Scilly with appropriate modifications—

- (a) sections 49, 64 and 66 (power to disconnect service pipes and cut off supplies);
- (b) sections 75 to 81 and Schedule 10 (charges for water supplies and sewerage services and metering);
- (c) sections 131 to 135 and Schedule 14 (drought etc.);
- (d) sections 174, 175, 177 to 180, 182, 185, 187, 189 and 192 and certain provisions of Schedule 26 and of Part I of Schedule 27 (miscellaneous and supplemental provisions).