
STATUTORY INSTRUMENTS

2009 No. 359 (C. 17)

WATER, ENGLAND

**The Water Act 2003 (Commencement No. 9
and Saving Provisions) (England) Order 2009**

Made - - - - 23rd February 2009

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104(6)(a) and 105(3) to (6) of the Water Act 2003⁽¹⁾:

Citation, extent and interpretation

1.—(1) This Order may be cited as the Water Act 2003 (Commencement No. 9 and Saving Provisions) (England) Order 2009.

(2) This Order applies in relation to England only except article 2(d) which extends to Scotland only.

(3) In this Order—

“the 1991 Act” means the Water Industry Act 1991⁽²⁾;

“the Act” means the Water Act 2003; and

“pre-1985 arrangements” means arrangements in pursuance of which a scheme for increasing fluoride content of water was being operated by a water undertaker by virtue of paragraph 1 of Schedule 7 to the 1991 Act immediately before the coming into force of section 58(2) of the Act.

Appointed day

2. The 25th February 2009 is the day appointed for the coming into force of the following provisions of the Act—

- (a) section 58(2) (fluoridation of water supplies) in so far as it is not already in force;
- (b) sections 58(3) and (4);
- (c) sections 58(5), (6) and (8) in so far as not already in force;
- (d) section 58(10);
- (e) sections 58(11), (12), (13) and (14), except in relation to pre-1985 arrangements; and

(1) 2003 c.37.
(2) 1991 c.56.

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(f) section 58(1) in so far as it relates to provisions commenced by paragraphs (a) to (e);

Saving provisions

3.—(1) The saving provisions in the Schedule shall have effect.

(2) Paragraph (1) shall come into force on the 25th February 2009.

Signed by authority of the Secretary of State for Health.

23rd February 2009

Ann Keen
Parliamentary Under-Secretary of State,
Department of Health

SCHEDULE

Saving Provisions

1. Until the coming into force of subsection (7) of section 58 (pre-1985 fluoridation schemes) of the Act, notwithstanding the commencement of sections 58(2), (3), (5) and (6) of the Act, the following provisions of the 1991 Act continue to apply to pre-1985 arrangements and are saved for the purposes of section 91 of, and Schedule 7 (pre-1985 Fluoridation Schemes) to, the 1991 Act—

- (a) the old section 87;
- (b) the old section 88;
- (c) the old section 89; and
- (d) the old section 90.

(2) In addition, any provision of any subordinate legislation that refers to old section 87, 88, 89 or 90 of the 1991 Act shall be saved with references to the relevant old provision for the purposes of pre-1985 arrangements notwithstanding that for all other purposes the references to the old section 87, 88, 89 or 90 of the 1991 Act will be read as a reference to the new section 87, 88, 89 or 90 of the 1991 Act (in accordance with section 17 of the Interpretation Act 1978⁽³⁾).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force further provisions of section 58 of the Water Act 2003 (“the Act”), and makes savings in respect of some of those provisions.

Section 58 of the Act makes amendments to provisions of the Water Industry Act 1991 (“the 1991 Act”) relating to fluoridation of water supplies.

Section 58 of the Act is in force, in relation to England, for limited purposes only: first, for the purpose of enabling the Secretary of State to make regulations on the consultation process which relevant authorities will have to follow before requesting water undertakers to enter into fluoridation arrangements or varying or terminating them. Secondly, section 58 of the Act is in force for the purpose of enabling the Secretary of State to make regulations in relation to indemnifying water undertakers and licensed water suppliers for liabilities they may incur in complying with arrangements for fluoridation. Section 58(2) (fluoridation of water supplies at request of relevant authorities) and section 58(5) (consultations) were partially commenced so that relevant authorities could conduct consultations on fluoridation of water supplies.

This Commencement Order commences, in particular—

- (a) section 58(2) of the Act (fluoridation of water supplies) of the 1991 Act in so far as it is not already in force.
- (b) section 58(5) of the Act of the 1991 Act (consultation) in so far as not already in force; and
- (c) the remaining provisions in section 58 with the exception of—
 - (i) sections 58(7) and (9); and

(3) 1978 c.30.

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(ii) sections 58(11), (12), (13) and (14) which have not been commenced in relation to pre-1985 arrangements for fluoridation of water supplies.

Article 3 and the Schedule make saving provisions in relation to pre-1985 arrangements for fluoridation of water which were in place prior to coming into force of this order.

This Order only applies in relation to England only except for Article 2(d) which extends to Scotland only.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Water Act 2003 have been brought into force in England and Wales by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s. 1	1.4.2006	2006/984 (C.30)
s. 2	1.4.2006	2006/984 (C.30)
s. 3	1.4.2006	2006/984 (C.30)
s. 4	1.4.2006	2006/984 (C.30)
s.6	1.4.2004 and 1.4.2005	2004/641 (C.24) & 2005/968 (C.43)
s. 8 (partially)	1.4.2006	2006/984 (C.30)
s.9	1.4.2004	2004/641 (C.24)
s.10	1.4.2004 and 1.4.2005	2004/641 (C.24) & 2005/968 (C.43)
s. 11	1.4.2006	2006/984 (C.30)
s.12	1.4.2006	2006/984 (C.30)
s.13	1.4.2006	2006/984 (C.30)
s.14	1.4.2006	2006/984 (C.30)
s.15	1.4.2004	2004/641 (C.24)
s.16	1.4.2004 and 1.4.2005	2004/641 (C.24) & 2005/968 (C.43)
s.17	1.4.2005	2005/968 (C.43)
s.18	1.4.2004	2004/641 (C.24)

(*) These provisions also extend partially to Scotland (section 105(9) of the Act) and were brought into force in Scotland by the same Order.

(†) These provisions also extend to Scotland (section 105(9) of the Act) and were brought into force in Scotland by the same Order.

(‡) These provisions also extend to Scotland and Northern Ireland (section 105(8) of the Act) and were brought into force in Scotland and Northern Ireland by the same Order.

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s.19	1.4.2004 and 1.4.2006	2004/641 (C.24) & 2006/984 (C.30)
s.20	1.4.2004	2004/641 (C.24)
s.21	1.4.2006	2006/984 (C.30)
s.22	1.4.2006	2006/984 (C.30)
s.23	1.4.2006	2006/984 (C.30)
s.24	1.4.2005	2004/641 (C.24)
s.25	1.4.2004 and 1.4.2006	2004/641 (C.24) & 2006/984 (C.30)
s.26	1.10.2004	2004/2528 (C.106)
s.27	1.4.2004	2004/641 (C.24)
ss. 28 and 29	1.10.2004	2004/2528 (C.106)
s.30	1.4.2006	2006/984 (C.30)
s.31	1.10.2004	2004/2528 (C.106)
s.33	1.4.2006	2006/984 (C.30)
s.34 (partially)	1.4.2006	2005/2714 (C.109)
s.35	1.8.2005, 1.10.2005 & 1.4.2006	2005/968 (C.43) & 2005/2714 (C.109)
s.36 & Sch. 3 ^(*)	1.4.2005 & 1.4.2006	2005/968 (C.43) & 2005/2714 (C.109)
s.37	1.4.2004	2004/641 (C.24)
s.38	1.10.2004, 1.8.2005 & 1.10.2005	2004/2528 (C.106), 2005/968 (C.43) & 2005/2714 (C.109)
ss.39 to 42	1.4.2005	2005/968 (C.43)
ss. 43 to 47	1.10.2005	2005/2714 (C.109)
s.48	1.10.2004 & 1.4.2005	2004/2528 (C.106) & 2005/968 (C.43)
ss. 49 and 50	1.10.2004	2004/2528 (C.106)
s.51	1.4.2005	2005/968 (C.43)

(*) These provisions also extend partially to Scotland (section 105(9) of the Act) and were brought into force in Scotland by the same Order.

(†) These provisions also extend to Scotland (section 105(9) of the Act) and were brought into force in Scotland by the same Order.

(‡) These provisions also extend to Scotland and Northern Ireland (section 105(8) of the Act) and were brought into force in Scotland and Northern Ireland by the same Order.

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s. 52	1.4.2006	2005/2714 (C.109)
s. 53 ^(*)	1.4.2004	2004/641 (C.24)
ss. 54 and 55	1.10.2004	2004/2528 (C.106)
s.56 & Sch. 4	1.4.2004, 1.8.2005, 1.10.2005 & 1.12.2005	2004/641 (C.24), 2005/968 (C.43) & 2005/2714 (C.109)
s.57	1.4.2004	2004/641 (C.24)
s.59	1.10.2004	2004/2528 (C.106)
ss. 60 and 61	1.4.2004	2004/641 (C.24)
s.62	1.10.2004, 1.10.2005, 1.4.2006 & 1.4.2007	2004/2528 (C.106), 2005/2714 (C.109), 2006/984 (C.30) & 2007/1021 (C.42)
s.63	1.10.2004 & 1.10.2005	2004/2528 (C.106) & 2005/2714 (C.109)
ss. 64 and 65	1.4.2004	2004/641 (C.24)
s. 66 ^(†) (partially)	1.4.2004	2004/641 (C.24)
s.67 (partially)	1.4.2004	2004/910 (W.93) (C.39)
s.68 ^(‡) (partially)	1.4.2004	2004/641 (C.24)
s.70	1.4.2005	2005/968 (C.43)
s.71	1.4.2004	2004/641 (C.24)
s.72	1.4.2004	2004/641 (C.24)
s.74 ^(*)	1.10.2004	2004/2528 (C.106)
s.76 ^(†)	1.10.2004	2004/2528 (C.106)
s.79	1.10.2004	2004/2528 (C.106)
ss. 82 to 84	1.4.2004	2004/641 (C.24)
s.85 ^(*) (partially) & Sch. 5 & 6	1.4.2004	2004/641 (C.24)
s.87	1.10.2004	2004/2528 (C.106)

(*) These provisions also extend partially to Scotland (section 105(9) of the Act) and were brought into force in Scotland by the same Order.

(†) These provisions also extend to Scotland (section 105(9) of the Act) and were brought into force in Scotland by the same Order.

(‡) These provisions also extend to Scotland and Northern Ireland (section 105(8) of the Act) and were brought into force in Scotland and Northern Ireland by the same Order.

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
ss.90 to 97	28.5.2004	2004/641 (C.24)
s. 98	1.4.2007	2007/1021 (C.42)
s.99	28.5.2004	2004/641 (C.24)
s.100 (partially)	17.3.2004, 1.4.2004, 28.5.2004, 1.10.2004, 1.4.2005, 1.8.2005, 1.10.2005, 1.12.2005, 1.4.2006, 1.4.2006 & 1.4.2007	2004/641 (C.24), 2004/2528 (C.106), 2005/968 (C.43), 2005/2714 (C.109), 2006/984 (C.30) & 2007/1021(C.42)
s.101(1) (partially) & Sch. 7 (partially)	1.4.2004, 1.10.2004, 29.12.2004, 1.4.2005, 1.8.2005, 1.10.2005, 1.4.2006 & 1.4.2007	2004/641 (C.24), 2004/2528 (C.106), 2005/968 (C.43), 2005/2714 (C.109), 2006/984 (C.30) & 2007/1021 (C.42)
s.101(1) & Sch. 8	1.4.2004, 1.10.2004 & 1.12.2005	2004/641 (C.24), 2004/2528 (C.106) & 2005/2714 (C.109)
s.101(2) & Sch. 9 (partially)	1.4.2004, 28.5.2004, 1.10.2004, 1.4.2005, 1.10.2005, 1.12.2005 & 1.4.2006	2004/641 (C.24), 2004/2528 (C.106), 2005/968 (C.43), 2005/2714 (C.109) & 2006/984 (C.30)

(*) These provisions also extend partially to Scotland (section 105(9) of the Act) and were brought into force in Scotland by the same Order.

(†) These provisions also extend to Scotland (section 105(9) of the Act) and were brought into force in Scotland by the same Order.

(‡) These provisions also extend to Scotland and Northern Ireland (section 105(8) of the Act) and were brought into force in Scotland and Northern Ireland by the same Order.

The following provisions of the Water Act 2003 have been brought into force in England by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s. 58 (partially)	18.2.2005 17.7.2008	2005/344 (C.12) 2008/1922 (C. 87)
s.69	17.3.2004	2004/641 (C.24)
s.75	1.4.2004	2004/641 (C.24)
ss. 77 and 78	1.10.2004	2004/2528 (C.106)
s.80	1.10.2004	2004/2528 (C.106)

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s.81	1.4.2004	2004/641 (C.24)
s.86 (partially)	1.10.2004	2004/2528 (C.106)
s.101(1) & Sch. 7 (partially)	17.3.2004 1.10.2004 & 17.7.2008	2004/641 (C.24)2004/2528 (C.106) & 2008/1922 (C.87)
s.101(2) & Sch. 9 (partially)	17.3.2004 & 17.7.2008	2004/641 (C.24) & 2008/1922

The following provisions of the Act have been brought into force in Wales by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s.69	1.4.2004	2004/910 (W.93) (C.39)
s.75	1.4.2004	2004/910 (W.93) (C.39)
ss. 77 and 78	11.11.2004	2004/2916 (W.255) (C.120)
ss. 80 and 81	11.11.2004	2004/2916 (W.255) (C.120)
s.86 (partially)	11.11.2004	2004/2916 (W.255) (C.120)
s.101(1) & Sch. 7 (partially)	1.4.2004 & 11.11.2004	2004/910 (W.93) (C.39) & 2004/2916 (W.255) (C.120)
s.101(2) & Sch. 9 (partially)	1.4.2004 & 11.11.2004	2004/910 (W.93) (C.39) & 2004/2916 (W.255) (C.120)