
STATUTORY INSTRUMENTS

1978 No. 1844

LOCAL GOVERNMENT, ENGLAND AND WALES

The Isles of Scilly Order 1978

Made - - - - 14th December 1978

Coming into Operation 1st February 1979

The Secretary of State for the Environment, in exercise of the powers conferred upon him by sections 265 and 266(2) of the Local Government Act 1972 and of all other powers enabling him in that behalf, hereby makes the following order:—

Title and commencement

1. This order may be cited as the Isles of Scilly Order 1978 and shall come into operation on 1st February 1979.

Interpretation

2.—(1) The Interpretation Act 1978 shall apply to this order as it applies to subordinate legislation made after the commencement of that Act.

In this order—

“the Act” means the Local Government Act 1972;

“the Council” means the Council of the Isles of Scilly;

“the Isles” means the islands situated within that part of the sea which is coloured brown, green, pink, yellow and blue on the maps;

“the maps” means the three maps each marked “Map of the Isles of Scilly, 1890”, sealed with the official seal of the Local Government Board and now deposited in the offices of the Secretary of State for the Environment, the Duchy of Cornwall and the Council respectively; and

“parish” means a parish described in article 3.

(2) Any reference in this order to a numbered article shall be construed as a reference to the article bearing that number in this order.

(3) Any reference in any article of this order to a numbered paragraph shall be construed as a reference to the paragraph bearing that number in that article.

Parishes

3.—(1) The Isles shall comprise five parishes, namely—

the parish of Bryher, which shall comprise the island of Bryher and the other islands situated within the part of the sea coloured pink on the maps;

the parish of St. Agnes, which shall comprise the island of St. Agnes and the other islands situated within the part of the sea coloured yellow on the maps;

the parish of St. Martin's, which shall comprise the island of St. Martin's and the other islands situated within the part of the sea coloured brown on the maps;

the parish of St. Mary's, which shall comprise the island of St. Mary's and the other islands situated within the part of the sea coloured blue on the maps; and

the parish of Tresco, which shall comprise the island of Tresco and the other islands situated within the part of the sea coloured green on the maps.

(2) The map deposited in the offices of the Council shall at all reasonable times be open to inspection by any ratepayer, and on payment of a reasonable fee to be determined by the Council any ratepayer shall be entitled to a copy of or an extract from the map, certified by the officer appointed for that purpose by the Council to be a true copy or extract, which shall be received in all courts of justice and elsewhere as prima facie evidence of the extent of any parish.

The Council

4.—(1) The Council shall consist of a chairman and councillors.

(2) The Council shall be a body corporate by the name “the Council of the Isles of Scilly”.

(3) 25 councillors shall be elected by the local government electors for the Isles in accordance with the Act and Part I of the Representation of the People Act 1949. Such councillors shall—

as to 2, be elected for the parish of Bryher;

as to 2, be elected for the parish of St. Agnes;

as to 2, be elected for the parish of St. Martin's;

as to 16, be elected for the parish of St. Mary's; and

as to 3, be elected for the parish of Tresco.

Election of councillors

5.—(1) The ordinary elections of councillors shall take place in 1979, 1981 and every fourth year thereafter on the ordinary day of election of councillors, their term of office shall be two years in the case of those elected at the ordinary elections in 1979 and four years in the case of those elected at ordinary elections held thereafter, they shall retire together in 1981 and every fourth year thereafter on the fourth day after the ordinary day of election of councillors, and the newly elected councillors shall come into office on the day on which their predecessors retire.

(2) Elections of councillors shall be conducted in accordance with the rules made under section 42 of the Act as if such elections were elections of county councillors.

Application of the Act to the Isles

6.—(1) In the application of the Act to the Isles—

the expression “local authority” shall include the Council;

the expression “local government area” shall include the Isles;

(2) The following provisions of the Act, namely—

sections 3 to 5 (chairmen and vice-chairmen)
section 42(5) (expenditure by returning officers)
section 83 (declaration of acceptance of office)
section 89 (filling of casual vacancies in case of councillors)
section 94(5) (provision as to allowances paid to chairmen and vice-chairmen)
section 107(9) (provision as to standing orders)
sections 120 to 123 (land transactions)
section 132 (halls, offices, etc.)
section 138 (emergencies and disasters)
section 141 (research and the collection of information)
section 249(1), (2) and (4) (honorary aldermen)
Part I of Schedule 12
Paragraphs 1(a) and 14 of Schedule 13,
shall apply as if the Council were a county council.

(3) Subject to the express provisions of this order in relation to parishes, none of the provisions of the Act in relation to parishes shall apply to the parishes described in article 3.

(4) In the application to the Isles of the provisions of the Act specified in column (1) of the Schedule to this order, there shall be made the modifications specified in respect thereof in column (2).

Changes in areas

7.—(1) Subject to paragraph (2), Part IV of the Act shall not apply to the Isles.

(2) Subsections (1) and (2) of section 72 (accretions from the sea, etc.) shall apply to the Isles, but in the said subsection (2), for the last 12 words there shall be substituted “the Isles of Scilly”.

Expenses

8.—(1) The expenses of the Council shall be divided into general expenses and parochial expenses.

(2) Subject to paragraph (3) to (5) all expenses of the Council shall be general expenses.

(3) Parochial expenses shall be—

- (a) those which by virtue of any enactment or instrument of a legislative character are special expenses chargeable only on one or some of the parishes; and
- (b) those which are by this order or any other order made under section 265 of the Act chargeable only on one or some of the parishes.

(4) The expenses of the Council in the performance and exercise of—

section 47 of the Public Health Act 1936;

the Highways Act 1959;

except in so far as they are expenses of the establishment and officers of the Council, shall be parochial expenses chargeable only on the parish in respect of which they are incurred.

(5) The expenses of the Council arising out of, or incidental to, the possession of property held by the Council in trust for any parish shall, so far as they fall to be defrayed out of rates, be parochial expenses chargeable only on the parish.

(6) The Council may by resolution declare any expenses incurred by them, other than—

- (a) expenses of the establishment and officers of the Council;
- (b) expenses of magistrates' courts;
- (c) expenses under the Coroners Acts 1887 to 1954(1); and
- (d) expenses in relation to the disposal of carcasses of animals washed on shore,

to be parochial expenses chargeable only on such parish or parishes as may be specified in the resolution, and any such resolution may be varied or revoked by a subsequent resolution of the Council.

(7) Where any expenses of the Council are payable as parochial expenses, the Council may determine to contribute as part of their general expenses such sums as appear to them to be reasonable in or towards defraying those expenses, and to treat the remainder, if any, as parochial expenses.

(8) Any order made under section 190(3) of the Local Government Act 1933 or any enactment replaced by that subsection and declaring expenses of any description to be separately chargeable on any parish, being an order in force immediately before 1st April 1974, shall have effect as a resolution made under paragraph (6) declaring the expenses to be parochial expenses chargeable only on the parish, and may be varied or revoked accordingly.

General fund of the Council

9.—(1) The Council shall keep a general fund to be known as the general fund of the Council.

(2) All receipts of the Council shall be carried to the general fund of the Council, and all liabilities falling to be discharged by the Council shall be discharged out of that fund.

(3) Accounts shall be kept of receipts carried to, and payments made out of, the general fund of the Council and any account kept in respect of general expenses only shall be called the general account and any account kept in respect of any class of parochial expenses only shall be called a parochial account.

Rates

10. Amounts leviable by the Council by means of a rate shall be chargeable—

- (a) in the case of amounts leviable to meet liabilities in respect of general expenses, on the whole of the Isles; and
- (b) in the case of amounts leviable to meet liabilities in respect of parochial expenses, on the parish or parishes chargeable therewith.

Parish documents

11.—(1) All specified papers (as defined in section 270 of the Act) of a parish shall remain in the same custody as before the coming into operation of this order, but the Council may direct that any such papers shall be deposited in such custody as may be specified in the direction.

(2) Any person having the custody of any documents mentioned in section 226(2) of the Act shall have reasonable access to the papers mentioned in paragraph (1), and the Council shall have reasonable access to the documents mentioned in the said subsection.

(3) Any difference about the custody of or access to any documents mentioned in paragraph (1) or in the said subsection (2) shall be determined by the Secretary of State for the Environment.

(4) For every parish the Council shall provide proper depositories for all the specified papers (as defined in section 270 of the Act) belonging to the parish for which no provision is otherwise made.

(1) 1887 c. 71; 1892 c. 56; 1954 c. 31.

Registration of births, marriages and deaths

12. The Marriage Act 1949 and the Registration Service Act 1953 shall have effect as if the Isles were a non-metropolitan county.

Expenses of prosecutions

13. Where any sums shall be payable in respect of the prosecution of any offences committed in the Isles, the orders for the payment thereof shall be made on the officer appointed for that purpose by the County Council of Cornwall and shall be paid by him out of the county fund. Any sum so paid shall be repaid by the Council to the county council.

Expenses of magistrates' courts

14. The expenditure of the County Council of Cornwall in any financial year under the Justices of the Peace Act 1949, as reduced by any sums receivable from the Secretary of State for the Home Department under section 27 of that Act, shall be apportioned between the county council and the Council in the proportions of the expenditure directly attributable to the petty sessional divisions in the County of Cornwall and the expenditure directly attributable to the Isles, and the amount so apportioned to the Council, as reduced by the amount of any sums receivable by the county council otherwise than under the said section 27 which are directly attributable to the Isles, shall be payable by the Council to the county council.

Expenses of probation and after-care

15. There shall be payable by the Council to the County Council of Cornwall—
- (a) the amount of any expenditure incurred by the committee for the Cornwall probation and after-care area directly in respect of the Isles and defrayed by the county council under the provisions of sub-paragraph (1) of paragraph 15 of Schedule 3 to the Powers of Criminal Courts Act 1973; and
 - (b) so much of the expenditure incurred by the said committee otherwise than directly in respect of the Isles or any petty sessional division in the County of Cornwall and defrayed by the county council as aforesaid as may from time to time be agreed between the Council and the county council or, in default of agreement, determined by the Secretary of State for the Home Department.

Transitional provision

- 16.—(1) Until the fourth day after the ordinary day of election of councillors in 1979—
- (a) the Council may include as aldermen the persons who are aldermen at the coming into operation of this order;
 - (b) the number of councillors to be elected for the parish of St. Mary's shall be 12; and
 - (c) section 3(1) of the Act shall have effect as if for “councillors” there were substituted “aldermen and councillors”.
- (2) The Council shall before 31st May 1979 appoint a member of the Council to be a member of the Devon and Cornwall Police Authority as from 1st June 1979 for a term of two years. The members of the Authority appointed by the Council in 1977 shall cease to serve on the said 1st June 1979.

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Orders made under the Local Government Act 1933

17.—(1) In the Isles of Scilly Order 1943, articles 1(2), 2 to 16, 19(2), and 20 to 30 shall cease to have effect except in so far as material in relation to the remaining provisions of that order, article 6 of the Isles of Scilly Order 1957 or any other order made under section 292 of the Local Government Act 1933.

(2) In the Isles of Scilly Order 1957, articles 1(2) and 3 to 5 shall cease to have effect.

(3) The following orders, namely—

The Isles of Scilly (Public Works Loans) Order 1966;

The Isles of Scilly Order 1966;

The Isles of Scilly (Registration Officer and Conduct of Elections) Order 1974; and

The Local Government (Isles of Scilly) Order 1974,

are hereby revoked.

Signed by authority of the Secretary of State

14th December 1978

K.F.J. Ennals
An Under Secretary in the Department of the
Environment

SCHEDULE

Article 6(4)

MODIFICATION OF CERTAIN PROVISIONS OF THE ACT

(1)	(2)
Section 39 (registration officers)	There shall be substituted— “39. The Council of the Isles of Scilly shall appoint an officer of the Council to be registration officer for the Isles.”
Section 41(1) (returning officers at local government elections)	There shall be substituted— “(1) The Council of the Isles of Scilly shall appoint an officer of the Council to be the returning officer for elections of councillors.”
Section 90 (term of office of persons filling casual vacancies)	For “chairman of a parish council or parish meeting or of parish councillor” there shall be substituted “chairman or councillor of the Council of the Isles of Scilly”
Section 154(2) (accounts to be audited by district or approved auditor)	There shall be inserted— “(aa) the accounts of the Council of the Isles of Scilly shall be audited either by the district auditor or by an auditor appointed by the Council, according as the Council shall determine by resolution passed before 1st July 1979;”
Section 166(1) (regulations as to accounts)	There shall be added— “Provided that the Council of the Isles of Scilly shall not be placed under any liability to give notice by advertisement in any newspaper of any matter, and any regulations made under this subsection shall have effect as if the publicity prescribed therein in relation to such matter were the giving of a public notice in each parish affected.”
Section 174(3) (subsistence allowance)	For the words following “duty performed” there shall be substituted “outside the parish in which he resides.”
Section 181(1) (local authority for the purposes of certain water enactments)	For the words following “1953;” there shall be substituted— “(d) the Water Acts 1945 and 1948; (e) the Drought Act 1976;

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(1)	(2)
	the local authority for the Isles of Scilly shall be the Council of the Isles.”
Section 181(2) (local authority for the purposes of certain sewerage enactments)	For the words following “the local authority” there shall be substituted “for the Isles of Scilly shall be the Council of the Isles.”
Section 187(1) (local highway authorities)	
Section 188(4) and (5) (amendments of Highway Acts)	After “Greater London”, wherever occurring, there shall be inserted “and the Isles of Scilly”
Section 189(3) (construction of references in Inclosure Act 1857)	There shall be inserted— “(aa) with respect to a green or land in the Isles of Scilly, as references to the Council of the Isles;”
Section 191 (Ordnance Survey)	For subsections (2) and (4) there shall be substituted— “(2) An application under section 1 of the 1841 Act shall be sent to the proper officer of the Council of the Isles of Scilly and, where such an application is made, the function of appointing a person to assist in examining, ascertaining and marking out reputed boundaries shall be exercisable by the said Council.” ; and “(4) References, in whatever terms, in the 1841 Act— (a) to the justices by whom a person is appointed shall be construed as references to the Council of the Isles of Scilly; and (b) to the clerk of the peace for a county shall be construed as references to the proper officer of the said Council.”
Section 192(1) (local education authorities)	There shall be substituted— “(1) The local education authority for the Isles of Scilly shall be the Council of the Isles of Scilly.”
Section 195(1) (local authorities for the purposes of the Local Authority Social Services Act 1970)	After “Greater London”, wherever occurring, there shall be inserted “and the Isles of Scilly”

(1)	(2)
Section 204(5) (issue of licences in relation to cinemas)	
Section 214 (cemeteries and crematoria)	After “the Common Council” there shall be inserted “the Council of the Isles of Scilly”
Section 220 (coroners)	There shall be inserted— “(3A) The Coroners Acts 1887 to 1954 shall apply in relation to the Isles of Scilly as if they were a county and the Council of the Isles were the council of that county.”
Section 224 (arrangements for custody of documents)	There shall be substituted— “ 224. The Council of the Isles of Scilly shall make proper arrangements with respect to any documents which belong to or are in the custody of the Council or any of their officers.”
Section 235(1) (byelaws for good rule and government and suppression of nuisances)	There shall be substituted— “(1) The Council of the Isles of Scilly may make byelaws for the good rule and government of the whole or any part of the Isles, and for the prevention and suppression of nuisances therein.”
Section 236(4) (notice of intention to apply for confirmation of byelaws)	For the words following “given” there shall be substituted “by public notice in each parish in which the byelaws are to apply.”
Section 239(2) (notice of resolution to promote or oppose a Bill)	For “by advertisement in one or more local newspapers circulating in the area of the authority” there shall be substituted “by public notice in every parish”
Section 240(1)(a) (notice of application for a provisional order)	For the words following “Gazette” there shall be substituted “and by public notice in each parish to which the order will relate;”
Section 240(3)(a) (notice of application for an order subject to special parliamentary procedure)	
In Schedule 6—	For “the council of each district or London borough” there shall be substituted “the Council of the Isles of Scilly”
in paragraph 5(1) (division of area into polling districts)	
in paragraph 6 (addresses in same area)	For sub-paragraph (b) there shall be substituted— “(b) both addresses are in the same parish in the Isles of Scilly, or”

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(1)	(2)
for paragraph 8 (polling districts and polling stations at local government elections)	There shall be substituted— “8. For section 22(1) there shall be substituted— “(1) For elections of councillors the Council of the Isles of Scilly may divide the Isles into polling districts and may alter any polling district.””
in paragraph 11 (application of the the Representation of the People Act 1949 to certain elections)	For “district, parish or community councillors or of the chairman of a district, parish or community council or a parish meeting “there shall be substituted “councillors of the Isles of Scilly or of the chairman of the Council of the Isles of Scilly”
in paragraph 13 (lists of meeting rooms)	For “Every district and London borough council” there shall be substituted “The Council of the Isles of Scilly”

EXPLANATORY NOTE

Section 265(1) of the Local Government Act 1972 provided for the continuance of the Council of the Isles of Scilly. Section 265(2) provides for an order providing, inter alia, for the constitution of the Council and otherwise for regulating the application of the Act of 1972 to the Isles. This Order contains such provision. It also, under section 265(3) of the Act of 1972, provides for payments to the Cornwall County Council in respect of certain expenses of that council.