

**EXPLANATORY MEMORANDUM TO  
THE ISLES OF SCILLY (CHILDREN ACT 1989) ORDER 2010**

**2010 No. 1116**

1. This explanatory memorandum has been prepared by The Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This Order modifies the application of the Children Act 1989 ('the 1989 Act') in relation to the Isles of Scilly, so that any provision in the 1989 Act which applies to a local authority in England also applies to the Council of the Isles of Scilly.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 The 1989 Act applies in England, and therefore in the Isles of Scilly. However, the definition of 'local authority' in section 105(1) of the 1989 Act is drafted in such a way as to inadvertently exclude the Council of the Isles of Scilly.

4.2 This is the first Order made under section 108(10) of the 1989 Act, which provides that the Act shall have effect in its application to the Isles of Scilly subject to such exceptions, adaptations or modifications as the Secretary of State may prescribe.

4.3 The Order modifies the application of the 1989 Act so that any reference in the 1989 Act to a 'local authority' means, in relation to the Isles of Scilly, the Council of the Isles of Scilly.

**5. Territorial Extent and Application**

5.1 This instrument applies to England.

**6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**7. Policy background**

• *What is being done and why*

7.1 This Order is required because the 1989 Act, although extending to the Isles of Scilly, does not apply to the Council of the Isles of Scilly, although it should do. The 1989 Act defines "local authority", in relation to England, as the council of a county, a metropolitan district, a London Borough or the Common Council of the City of London. The Council of the Isles of Scilly is neither a county nor a district council. This Order is therefore required to ensure that the 1989 Act can apply to the whole of England by bringing the Council of the Isles of Scilly into line with the rest of the

country. The Council of the Isles of Scilly have always presumed that the 1989 Act did apply to them. This issue and the Order are unlikely to arouse any public interest, or to attract any media attention. The action being taken is also not of significant political importance.

- ***Consolidation***

7.2 Not relevant.

## **8. Consultation outcome**

8.1 The Council of the Isles of Scilly have given their agreement to the making of this Order. A formal 12-week consultation was not required in this particular case.

## **9. Guidance**

9.1 No guidance or other form of publicity is required in relation to this Order. We have already consulted the Council of the Isles of Scilly who have agreed that we proceed to make the Order. A raft of guidance exists in relation to the 1989 Act, and this will continue to apply.

## **10. Impact**

10.1 There will be no impact on business, charities or voluntary bodies as a result of this Order.

10.2 An Impact Assessment has not been prepared for this instrument as this Order deals with a drafting issue and will have no impact on the private, voluntary, or public sector.

## **11. Regulating small business**

11.1 This Order deals with a drafting issue and will have no impact on small businesses.

## **12. Monitoring & review**

12.1 The Order does not require monitoring or review.

## **13. Contact**

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