

ELIZABETH II



1990 CHAPTER iv

**An Act to amend the Isle of Wight County Council Act
1971. [22nd February 1990]**

WHEREAS—

- (1) Section 5 of the Isle of Wight County Council Act 1971 conferred on the Council of the County of the Isle of Wight (hereinafter referred to as “the Council”) certain powers of control of large overnight assemblies in the open: 1971 c. lxxi.
- (2) By the Isle of Wight Act 1980 it was provided that the said section 5 should continue to have effect notwithstanding the provisions of section 262 of the Local Government Act 1972: 1980 c. xv.
1972 c. 70.
- (3) The said section 5 was amended by the Isle of Wight Act 1986: 1986 c. xi.
- (4) It is expedient further to amend the powers of the Council under the said section 5:
- (5) The purposes of this Act cannot be effected without the authority of Parliament:
- (6) In relation to the promotion of the Bill for this Act the requirements of section 239 of the Local Government Act 1972 have been observed:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- Citation. 1. This Act may be cited as the Isle of Wight Act 1990.
- Interpretation. 2. In this Act, unless the context otherwise requires—
1971 c. lxxi. “the Act of 1971” means the Isle of Wight County Council Act 1971;
“section 5” means section 5 (Control of large assemblies in the open) of
the Act of 1971.
- Amendments to Act of 1971. 3. In section 5—
(1) in subsection (1), for “not less than four months” there shall be substituted “the requisite”;
(2) after subsection (1) there shall be inserted —
“(1A) Subject to subsection (1B) of this section, the requisite notice for the purpose of subsection (1) of this section is a notice given not less than four months before the holding of the assembly.
(1B) The Council may, in any case in which they think fit to do so, accept a notice given less than four months before the holding of the assembly as valid for the purpose of subsection (1) of this section, and they shall be deemed to have done so if, but only if—
(a) in response thereto they give notice under subsection (2), (5) or (5A) of this section; or
(b) within one month of the receipt thereof they notify the person who gave it that they accept it as a valid notice.”;
(3) in subsection (2), for “counter-notice” there shall be substituted “notice”;
(4) in subsection (2A), for “counter-notice” there shall be substituted “notice”;
(5) in subsection (5), there shall be deleted “without prejudice to any counter-notice under subsection (2) of this section”;
(6) in subsection (5), for “counter-notice” where that expression secondly occurs there shall be substituted “notice”;
(7) in subsection (5), for “counter-notice is withdrawn by the Council” there shall be substituted “notice served by the Council under this subsection is withdrawn by them”;
(8) in subsection (5A), for “counter-notice” where that expression first occurs there shall be substituted “notice”;
(9) in subsection (5A), for “counter-notice is withdrawn by the Council” there shall be substituted “notice served by the Council under this subsection is withdrawn by them”;
(10) in subsection (8), for “counter-notice” where that expression first and thirdly occurs there shall be substituted “notice”;
(11) in subsection (8) for “or counter-notice from” there shall be substituted “by”;
(12) in subsection (9) (a) after “service” there shall be inserted “on him” and for “counter-notice” there shall be substituted “notice”;
(13) in subsection (9) (b) after “service” there shall be inserted “on him” and for “counter-notice” there shall be substituted “notice”.
- Amended section 5. 4. In accordance with the provisions of this Act, section 5 shall have effect as set out in the Schedule to this Act.

SCHEDULE

Section 4.

SECTION 5 AS AMENDED BY THIS ACT

5.—(1) A person shall not hold an assembly to which this section applies and the occupier of any land shall not permit that land to be used as the site of such an assembly or, if the land is adjacent to the proposed site of such an assembly, permit it to be used for purposes of that assembly, unless he has given to the Council the requisite notice that the assembly is to be held or, as the case may be, that the land is to be so used with the information mentioned in subsection (3) of this section.

Control of large assemblies in the open.

(1A) Subject to subsection (1B) of this section, the requisite notice for the purpose of subsection (1) of this section is a notice given not less than four months before the holding of the assembly.

(1B) The Council may, in any case in which they think fit to do so, accept a notice given less than four months before the holding of the assembly as valid for the purpose of subsection (1) of this section, and they shall be deemed to have done so if, but only if—

- (a) in response thereto they give notice under subsection (2), (5) or (5A) of this section; or
- (b) within one month of the receipt thereof they notify the person who gave it that they accept it as a valid notice.

(2) Within one month of the receipt of any such notice or of the information under subsection (4) of this section or in default of the receipt of such information within the period specified in subsection (4) of this section the Council may, after consultation with such local authorities and such statutory or other authorities as the Council think fit, serve a notice on the person giving such notice or information, or, as the case may be, the person required under subsection (4) of this section to give such information, requiring him to comply with such reasonable terms or conditions as they think fit with respect to water supply and securing sanitary conditions, public order and public safety and for the prevention of actionable nuisance:

Provided that no term or condition relating to public order shall be imposed without the consent of the Chief Constable of the police authority.

(2A) Without prejudice to the generality of subsection (2) of this section, a notice under that subsection may require the person on whom it is served to arrange to provide on site such number of public telephones as the Council may reasonably specify for the use of those attending the assembly.

(3) Any notice given under subsection (1) of this section shall state the purpose and the proposed date of commencement and duration of the assembly, the limits of the site to be occupied and the maximum number of persons which the person giving the notice expects to attend the assembly and the person giving the notice shall pay to the Council such amount in respect of any extra expense which may be incurred by any authority by reason of the assembly as the Council may reasonably require.

(4) If the Council have reason to believe that any assembly to be held in the county will be an assembly to which this section applies but no notice has been given to them thereof under subsection (1) of this section, by the person intending to hold the same or by the occupier, as the case may be, they may as soon as reasonably practicable after the intention to hold the same has come to their knowledge serve on the person intending to hold the assembly and on the occupier of any land on which it appears the assembly is to be held a notice requiring that person to give to the Council the information required by subsection (3) of this section which information shall be supplied by the person on whom the notice is served within seven days after the service of such notice and to pay to the Council the amount required under that subsection.

(5) If the site stated in a notice given in pursuance of subsection (1) of this section or information given in pursuance of subsection (4) of this section, or,

SCH.—*cont.*

in default of such information, the site that the Council have reason to believe to be the intended site shall in the reasonable opinion of the Council be too small or by reason of its situation or condition be unsuitable for the purpose of the proposed assembly or for the number expected to attend they may, within one month after the receipt of a notice under subsection (1) of this section or of the information under subsection (4) thereof, or, as the case may be, within one month after the expiry of the seven days referred to in subsection (4) of this section, serve a notice to that effect setting out in the case of unsuitability the grounds on which it is in the opinion of the Council unsuitable and stating (in either case) that unless the notice served by the Council under this subsection is withdrawn by them the assembly in question shall not be held.

(5A) If in the case of an assembly which is the subject of a notice given under subsection (1) or subsection (4) of this section the Council are reasonably of the opinion that the requirements likely to be imposed on the fire or police authorities by that assembly will exceed the available resources of either of those authorities, they may within the appropriate period specified in subsection (5) of this section serve a notice to that effect setting out the extent to which they consider those resources will be exceeded and stating that unless the notice served by the Council under this subsection is withdrawn by them the assembly in question shall not be held.

(6) If the number of persons who attend the assembly exceeds the maximum number stated in the notice or information, or, in the case where there has been a default as mentioned in subsection (2) of this section, the number estimated by the Council, the person giving the notice or information or required to give the information shall pay to the Council such additional amount in respect of the extra expense incurred by any authority by reason of the assembly as the Council may reasonably require.

(7) A person giving notice under subsection (1) of this section or giving or required to give information under subsection (4) thereof shall deposit with the Council by way of security the amount required by the Council under subsections (3) and (4) of this section and shall also give to the Council a bond of reasonable amount with a sufficient surety to be approved by the Council for the payment of the amount which that person may be liable to pay to the Council in accordance with the provisions of subsection (6) of this section.

(8) Any person aggrieved by the service of a notice under subsection (5) or (5A) of this section or by any terms or conditions required by the Council under this section including any payments or bonds for payment under this section may within fourteen days after the service of any notice by the Council appeal to the Crown Court and on such appeal the court may by order confirm, vary or set aside any such term, condition or requirement or may impose any term, condition or requirement which the Council would have been entitled to impose by virtue of this section and may quash any such notice under subsection (5) or (5A) and the Council shall give effect to such order accordingly and such order shall be final.

(8A) Where a term or condition has been required by the Council under this section or imposed under subsection (8) of this section, and it appears to the Council that the term or condition will not be complied with, the Council may notify in writing the person required by this section to comply with the term or condition that they propose to exercise the power under this subsection whereupon the Council shall themselves execute such works or take such action as may be reasonably necessary to comply with the term or condition and may recover the expenses reasonably incurred by them in so doing from the person required by this section to comply with the term or condition.

(9) (a) A person who holds an assembly to which this section applies without giving notice as required by subsection (1) of this section or information as required by subsection (4) thereof or after the service on him of a notice under subsection (5) or (5A) thereof which has not been withdrawn by the Council or quashed under subsection (8) thereof shall be guilty of an offence.

(b) The occupier of land who permits that land to be used as mentioned in subsection (1) of this section without giving notice as required by subsection (1) of this section or information as required by subsection (4) thereof or after the service on him of a notice under subsection (5) or (5A) thereof which has not been withdrawn by the Council or quashed under subsection (8) thereof shall be guilty of an offence.

SCH.—cont.

(c) Any person concerned in the management of an assembly to which this section applies or the occupier of land permitting that land to be used as mentioned in subsection (1) of this section who contravenes any term, condition or requirement imposed under this section, or who knew, or had reasonable cause to suspect, that such a term, condition, or requirement was being contravened by some other person shall be guilty of an offence:

Provided that—

- (i) in proceedings for an offence under this subsection it shall be a defence for the accused to prove that he has used all due diligence to ensure compliance with the term, condition or requirement concerned; and
- (ii) a person shall not be guilty of an offence in respect of the contravention of a term or condition with which the Council have complied under subsection (8A) of this section.

(d) A person who commits an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale and the court convicting him may by the conviction adjudge him to pay to the Council such amount in respect of the extra expense incurred by the authorities by reason of the holding of the assembly or breach of the term or condition as the court may determine.

(e) Section 41 of the Administration of Justice Act 1970 (recovery of costs and compensation awarded by magistrates, assizes, quarter sessions, etc.) shall have effect as if the following paragraph were contained in Part I of Schedule 9 to that Act:—

1970 c. 31.

“Where under section 5 of the Isle of Wight County Council Act 1971 a court adjudges a person to pay a sum of money in respect of extra expenses incurred by reason of the holding of an assembly or breach of a term or condition imposed under that section.”

1971 c. lxxi.

(10) The Council may pay to any authority the whole or such part or parts of any sums received by them under subsections (3), (4), (6), (8) and (9) of this section as they may think fit.

(11) An assembly to which this section applies is an assembly in the county in the open air at which there are reasonable grounds for believing that there are more than 5,000 people present at any time not being an assembly held—

- (i) by and under the supervision of members of an organisation as respects which a certificate of exemption granted under section 269 (6) of the Public Health Act 1936 is in force; or
- (ii) by the Salvation Army.

1936 c. 49.

(11A) In proceedings for an offence under this section against a person who is the occupier of any land and who permits that land to be used as the site of an assembly to which this section applies or to be used for the purposes of that assembly, it shall be a defence for him to show that he did not have reasonable grounds for believing that there would be more than 5,000 people present at any time.

(12) (a) In this section “authority” means the Council, a local authority, the police authority, the river and water authority, or any other body discharging functions in the county in pursuance of statutory powers.

(b) For the purposes of this section a person who holds an assembly includes any person who—

- (i) on his own behalf or by his agent gives notice to the Council under subsection (1) of this section or information under subsection (4) of this section; or

SCH.—*cont.*

- (ii) permits land occupied by him to be used as the site of an assembly;
or
- (iii) charges admission to the site of the assembly; or
- (iv) is entitled, as a person promoting the assembly, or as the agent, licensee or assignee of a person promoting the assembly, to the television, broadcasting, filming or recording rights of the assembly or of any performance given in the course of it; or
- (v) is entitled as aforesaid to payment for goods sold or services rendered to persons attending the assembly or for the granting of rights to other persons to sell goods or services to persons attending the assembly.

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Isle of Wight Act 1990

CHAPTER iv

ARRANGEMENT OF SECTIONS

Section

1. Citation.
2. Interpretation.
3. Amendments to Act of 1971.
4. Amended section 5.

SCHEDULE—Section 5 as amended by this Act.

