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STATUTORY INSTRUMENTS

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**2013 No. 2148**

**TOWN AND COUNTRY PLANNING, ENGLAND**

**The Town and Country Planning (Isles of Scilly) Order 2013**

*Made - - - - 29th August 2013*

*Coming into force in accordance with Article 1*

The Secretary of State in exercise of the powers conferred by section 319 of the Town and Country Planning Act 1990(1), section 92 of the Planning (Listed Buildings and Conservation Areas) Act 1990(2) and section 116 of the Planning and Compulsory Purchase Act 2004(3), and after consultation with the Council of the Isles of Scilly, makes the following Order:

**Citation and commencement**

1.—(1) This Order may be cited as the Town and Country Planning (Isles of Scilly) Order 2013 and, subject to paragraph (2), comes into force on 2nd October 2013.

(2) The references to the Listed Buildings Act in Article 3 shall, from the day on which amendments are made to that Act by the commencement of sections 60 and 61 of, and Schedule 16 to, and paragraphs 7 to 11 and 14 to 20 of Schedule 17 to (and section 63 of so far as it relates to those paragraphs), the Enterprise and Regulatory Reform Act 2013(4), have effect as references to the Listed Buildings Act as so amended.

**Interpretation**

2. In this Order—

“the 1990 Act” means the Town and Country Planning Act 1990;

“the 2004 Act” means the Planning and Compulsory Purchase Act 2004;

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- (1) 1990 c. 8. The 1990 Act was amended by Part 1 of the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004. Section 319 of the 1990 Act was substituted by paragraph 49 of Schedule 7 of the Planning and Compulsory Purchase Act 1991 (c. 34) and extended by paragraph 51 of Schedule 4 of that Act. Relevant amendment was also made by the creation of a new offence of failing to obtain the required planning permission for “relevant demolition” which was inserted as new section 196D of the 1990 Act by section 63 and paragraph 6 of Schedule 17 to the Enterprise and Regulatory Reform Act 2013 (c. 24).
- (2) 1990 c. 9. Section 63 and paragraphs 12 and 13 of Schedule 17 to the Enterprise and Regulatory Reform Act 2013 (c. 24) amended sections 74 and 75 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to abolish, for England, the requirement to obtain conservation area consent in respect of certain buildings in conservation areas. Previous relevant amendments were made by section 120 of and Schedule 9 to, the Planning and Compulsory Purchase Act 2004 and by sections 25 and 84 of and Schedules 3 and 19 to the Planning and Compensation Act 1991.
- (3) 2004 c. 5.
- (4) 2013 c. 24.

“the 2005 Order” means the Town and Country Planning (Isles of Scilly) Order 2005<sup>(5)</sup>;  
“the Council” means the Council of the Isles of Scilly; and  
“the Listed Buildings Act” means the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Application of provisions of the Listed Buildings Act to the Isles of Scilly**

3. All the provisions of the Listed Buildings Act specified in section 92(2) and (3) of that Act shall apply to the Isles of Scilly as if those Isles were a separate county, subject to the modifications specified in Schedule 1 to this Order.

### **Exercise of planning functions under the 1990 Act and the 2004 Act**

4. The Council shall exercise for the Isles of Scilly all functions under the 1990 Act and Part 2 of the 2004 Act exercisable by a local planning authority or a mineral planning authority for their respective areas in England, subject to the exceptions, adaptations and modifications specified in Schedule 2 to this Order.

### **Revocations, savings and transitional provisions**

5.—(1) The Planning (Listed Buildings and Conservation Areas) (Isles of Scilly) Order 1990<sup>(6)</sup> is revoked.

(2) Subject to paragraph (3), the 2005 Order is revoked.

(3) Article 5(3) of the 2005 Order continues in force so far as it makes provision for the continued application of the Town and Country Planning (Isles of Scilly) Order 1992<sup>(7)</sup>.

(4) Where, before 2nd October 2013, an application for conservation area consent under section 74 of the Listed Buildings Act has been submitted to the Council, the amendments made—

- (a) by article 3 of the Enterprise and Regulatory Reform Act 2013 (Abolition of Conservation Area Consent) (Consequential and Saving Provisions) (England) Order 2013<sup>(8)</sup>; and
- (b) to the National Heritage Act 1983<sup>(9)</sup>, the 1990 Act and the Listed Buildings Act by paragraphs 1 to 6, 12 and 13 of Schedule 17 to the 2013 Act, and by section 63 of that Act in so far as it relates to those paragraphs, notwithstanding the commencement of those provisions,

shall not have effect.

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(5) S.I. 2005/2085.  
(6) S.I. 1990/2237.  
(7) S.I. 2012/1620.  
(8) S.I. 2013/2146  
(9) 1983 c. 47.

Signed by authority of the Secretary of State for Communities and Local Government

29th August 2013

*Nick Boles*  
Parliamentary Under Secretary of State  
Department for Communities and Local  
Government

SCHEDULE 1

Article 3

Modifications

1. Any reference to the local planning authority shall include a reference to the Council.
2. Any reference to the council of a county shall include a reference to the Council.
3. Any reference to a district shall include a reference to the Isles, and any reference to the council of a district shall include a reference to the Council.
4. Any requirement as to—
  - (a) consultation between a local planning authority or the council of a county, and the council of a district, or
  - (b) as to the giving of notice by one such authority or council to another,shall not apply.

SCHEDULE 2

Article 4

Exceptions, adaptations and modifications

1. Any reference to a local planning authority, except in paragraph 7(1) of Schedule 1 to the 1990 Act, or to a mineral planning authority, shall include a reference to the Council.
2. Any reference to the council of a county shall include a reference to the Council.
3. Any reference to a district shall include a reference to the Isles of Scilly, and any reference to the council of a district shall include a reference to the Council.
4. Any requirement as to—
  - (a) consultation between a local planning authority or a mineral planning authority or the council of a county, and the council of a district;
  - (b) consultation between the council of a county, and a local planning authority; or
  - (c) the giving of notice by any body mentioned in sub-paragraphs (a) or (b) to any other such body,shall not apply.

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order revokes and consolidates the Planning (Listed Buildings and Conservation Areas) (Isles of Scilly) Order 1990 (“the 1990 Order”) and the Town and Country Planning (Isles of Scilly) Order 2005 (“the 2005 Order”) and incorporates changes arising as a result of the abolition of conservation area consent by section 63 of, and paragraphs 1 to 6, and 12 and 13 of Schedule 17 to, the Enterprise and Regulatory Reform Act 2013 (“the 2013 Act”), which have effect from 2nd October 2013.

Article 1(2) to this Order provides that changes to be made by sections 60 and 61 of, and Schedule 16 and paragraphs 7 to 11 and 14 to 20 of Schedule 17 to, the 2013 Act to the Listed Buildings Act (which relate to heritage planning and listed buildings) shall have effect from the day on which those changes are brought into force by a future Commencement Order made under the 2013 Act.

Paragraphs 12 and 13 of Schedule 17 to the 2013 Act abolished, in relation to England, the requirement to obtain conservation area consent for the demolition of certain buildings in conservation areas – planning permission will instead be required under section 55 of the Town and Country Planning Act 1990, and paragraph 6 of Schedule 17 to the 2013 Act inserted a new offence - at section 196D of the Town and Country Planning Act 1990 - of failing to obtain the required planning permission in respect of such demolition.

This Order also provides for the exercise of planning functions in the Isles of Scilly by the Council of the Isles of Scilly and it directs exceptions to and adaptations and modifications of the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004 for the purposes of application of the legislation to the Isles of Scilly.

The Isles of Scilly are defined by, and the Council of the Isles of Scilly is constituted under, the Isles of Scilly Order 1978 ([S.I. 1978/1844](#)).