



Department
for Environment
Food & Rural Affairs

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Your ref:
Our ref: RFI 6961
Date: 26 November 2014

Dear

REQUEST FOR INFORMATION: ISLES OF SCILLY AND THE COUNTRYSIDE AND RIGHTS OF WAY ACT 2000

Thank you for your request for copies of any information, including correspondence, memos, leaflets, pamphlets in either written or electronic form, which relates to the exclusion of the Isles of Scilly from the Countryside and Rights of Way Act 2000 ("the CroW Act"), which we received on 20 October 2014. As you know, we have handled your request under the Environmental Information Regulations 2004 (EIRs).

Defra does not hold any correspondence, memos, leaflets, or pamphlets relating to this matter. The information is therefore exempt under regulation 12(4)(a) of the EIRs, which relates to information which is not held at the time when an applicant's request is received. Regulation 12(4)(a) is a qualified exception, which usually means that a public authority is required to conduct a public interest test to determine whether or not information should be disclosed or withheld. However, the Information Commissioner, who is the independent regulator for requests made under the EIRs, takes the view that a public interest test in cases where the information is not held would serve no useful purpose. Therefore, in line with the Information Commissioner's view, Defra has not conducted a public interest test in this case.

The Department of the Environment, Transport and the Regions prepared a series of notes on each clause of the Bill to be used by Ministers, as necessary, during the Parliamentary passage of the Bill. These notes are known as Stand Part notes, and the situation regarding the Isles of Scilly is addressed in the following extract:

"Clause 70 relates to the application of the provisions of the Bill to the Isles of Scilly. It expressly excludes parts of the Bill from applying to the Isles of Scilly, but provides power to the Secretary of State to apply them by order after consultation with the Council of the Isles of Scilly. This approach is consistent with what is already in the Highways Act 1980".

Section 100 of the CroW Act covers the application of certain provisions of the Act to the Isles of Scilly. It provides that the following do not apply to the Isles of Scilly unless an order is made by the Secretary of State to provide for the application of any of



those provisions (no such order has as yet been made), subject to such modifications as may be specified in the order:

- part I of the Act (which relates to access to the countryside);
- sections 58 to 61 (which relate to the application of path creation orders to provide access to access land; powers to create, stop up or divert highways and rights of way improvement plans); and
- section 71 (which relates to powers for the Secretary of State to make regulations requiring local highway authorities to publish reports on the performance of their functions relating to rights of way).

Part IV of the CroW Act (which relates to Areas of Outstanding Natural Beauty) applies to the Isle of Scilly, subject to such modifications as may be specified in an order made by the Secretary of State. Section 100 also amends certain provisions in the Highways Act 1980 to apply to the Isles of Scilly.

The remaining information you have requested is publicly available, and by providing links Defra has met its obligation under regulation 5(1) of the EIRs:

- the Countryside and Rights of Way Bill ("the Bill") was presented to the House of Commons on 3 March 2000 accompanied by Explanatory Notes to the Bill, prepared by the Department of the Environment, Transport and the Regions with the Office of the Secretary of State for Wales. A copy of the Explanatory Notes are available on the website at:

<http://www.parliament.the-stationery-office.co.uk/pa/cm199900/cmbills/078/en/00078x--.htm>;

- the clause on the Isles of Scilly was discussed and amended on a number of occasions during the Parliamentary passage of the Bill including the House of Commons Standing Committee B (18 May 2000); the House of Lords (16 October 2000) and (16 November 2000); and the Commons Consideration of Lords Amendments (28 November 2000). The Parliamentary proceedings of the Bill including the details of the amendments can be found in the Hansard reports of the proceedings. These can be accessed via <http://www.parliament.uk/business/publications/hansard/>; and
- on 29 January 2001 the Department of the Environment, Transport and the Regions issued a Circular 04/2001 "Countryside and Rights of Way Act 2000". Paragraph 83 of the Circular covered the Isles of Scilly. A copy of the circular is available at <http://www.bbtrust.org.uk/bbe/bbe-x-04-01.pdf>

In addition to your request for information about the CroW Act and the Isles of Scilly you may also find it helpful to know that the approach taken in the CroW Act is similar to that which was taken in other countryside legislation which preceded the CroW Act including the National Parks and Access to the Countryside Act 1949, the Highways Act 1980, and the Wildlife and Countryside Act 1981. All of these Acts contain provisions relating to their application to the Isles of Scilly. Subsequent changes were made to these pieces of legislation including:

- the National Parks and Access to the Countryside (Isles of Scilly) Order 1973 [SI 1973 No.1395] which brought the National Parks and Access to the Countryside Act 1949 into effect in the Isles of Scilly. This Order also provided for the Countryside Act 1968 to apply to the Isles of Scilly;
- the Wildlife and Countryside (Isles of Scilly) Order 1983 [SI 1983 No.512] which provided for the application of the provisions of Part II and Part III of the Wildlife and Countryside Act 1981(which relate to issues of nature conservation, countryside, national parks and public rights of way) to the Isles of Scilly; and
- the Wildlife and Countryside (Isles of Scilly) Order 2001 [SI 2001No.1805]. This Order amended both the 1973 and 1983 Orders so that amendments made by Part III of, and Part III of Schedule 16 to, the CroW Act which relate to nature conservation applied to the Isles of Scilly.

You will be able to find copies of all of the legislation mentioned above at <http://www.legislation.gov.uk/>

In keeping with the spirit and effect of the EIRs, and in keeping with the government's Transparency Agenda, all information is assumed to be releasable to the public unless exempt. Therefore, the information released to you will now be published on www.gov.uk together with any related information that will provide a key to its wider context. Please note that this will not include your personal data.

I attach Annex A, which explains the copyright that applies to the information being released to you.

I also attach Annex B giving contact details should you be unhappy with the service you have received.

If you have any queries about this letter please contact the address below.

Yours sincerely,

Defra FOIA and EIRs Team
InformationRequests@defra.gsi.gov.uk

Annex A

Copyright

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Annex B

Complaints

If you are unhappy with the service you have received in relation to your request you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 18 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to Mike Kaye, Head of Information Standards, Area 4D, Nobel House, 17 Smith Square, London, SW1P 3JR (email: requestforinfo@defra.gsi.gov.uk) and he will arrange for an internal review of your case. Details of Defra's complaints procedure are on our [website](#).

If you are not content with the outcome of the internal review, section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted Defra's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF