EXPLANATORY MEMORANDUM TO THE

CARERS (EQUAL OPPORTUNITIES) ACT 2004 (ISLES OF SCILLY) ORDER 2005

2005 No. 1096

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument modifies the effect of section 3 (co-operation between authorities) of the Carers (Equal Opportunities) Act 2004 (c.15) ("the 2004 Act") in its application to the Isles of Scilly.

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

3.1 None.

4. Legislative Background

4.1 Section 3 of the 2004 Act, which came into force in relation to England on 1st April, facilitates joint working by providing a formal basis for co-operation between local and the other authorities it applies to. It imposes a statutory duty on those authorities to give due consideration to a request made by a local authority for assistance in relation to the planning or the provision of services that are relevant to carers and cared for persons. The authorities that must give due consideration to such a request include other social services authorities and NHS trusts.

4.2 The co-operation provisions apply in relation to England, of which the Isles of Scilly is part. Section 6(5) of the 2004 Act enables the Secretary of State, by order made by statutory instrument, to provide that section 3 of the Act shall have effect in its application to the Isles of Scilly with such modifications as are set out in the order. A provision such as this is commonly included in primary legislation.

4.3 This instrument makes a number of modifications to section 3 of the 2004 Act in its application to the Isles. In particular, "a local authority" shall be construed as a reference to the Council of the Isles of Scilly, which is also added to the list of authorities mentioned in subsection (5) who may be asked for assistance by a local authority.

5. Extent

5.1 This instrument extends to England and Wales.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy background

7.1 The Council of the Isles of Scilly provides social services to persons in need of assistance, including to carers of adults or disabled children, and carries out carers' assessments using the "Single Assessment Process" in co-operation with health service providers. The Department of Health's policy objective is that the co-operation provisions of section 3 of the 2004 Act should be construed as having equivalent effect in their application to the Council of the Isles of Scilly as that for local authorities. This instrument addresses a specific issue which is likely to be relevant only to the Council and to a limited number of public authorities. A draft of this instrument has been shared with the Isles Council who had no comments on it.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The Department of Health considers that the impact on the public sector of this instrument is nil or negligible.

9. Contact

9.1 Gail Elkington at the Department of Health Tel: 020 797 24723 or e-mail: gail.elkington@dh.gsi.gov.uk can answer any queries regarding the instrument.