

**Islands Strategic Group
Room Q1.04 Scottish Parliament, Edinburgh
Thursday 04 October 2018 (13:00-15:00)**

ISLANDS (SCOTLAND) ACT 2018

The Islands (Scotland) Act was introduced to Parliament on 9 June and launched by the Minister for Transport and The Islands on 12 June. The Act was unanimously passed at Stage 3 on 30 May and received Royal Assent on 6 July 2018. Sections 1, 2 and 30-32 comprising technical provisions came into force on the following day.

On 04 October 2018 provisions coming into force include a national islands plan; duties to make a scheme by which certain public authorities can make requests for functions and powers, Shetland mapping and electoral representation of island communities.

s.16 Duty to Consult island communities

This places a duty on Scottish Ministers to consult island communities before making a material change to any policy, strategy, or service which, in their opinion, is likely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities) in Scotland.

The provisions state that those consulted **must** include the six island local authorities (Argyll and Bute Council; Comhairle nan Eilean Siar; Highland Council; North Ayrshire Council; Orkney Council; Shetland Council). The consultation may also include other bodies or persons as the Scottish Ministers determine.

In addition, the provisions place a duty on Ministers to ensure that, within three months of the consultation ending, they must publish: the responses to the consultation; and information about the steps which they will take following the consultation.

Finally, the provisions also allow, in the cases where Ministers do not consider a material change to a policy, strategy or service will have a different effect on an island community, that the island local authorities can request that Ministers consult island communities before making the change. In these cases, Ministers must either consult island communities or publish an explanation for not doing so.

s.17 Shetland mapping requirement

This provision requires that when publishing in any form, a document that includes a map of Scotland, the Scottish Ministers, a local authority and any other Scottish public authority with mixed functions or no reserved functions must comply with the Shetland mapping requirement or, where Ministers or, as the case may be, the authority, consider that there are reasons not to comply, provide in such manner as they consider appropriate, information about those reasons.

The requirement means that when producing a map of Scotland, the Shetland Islands must be displayed in a way that accurately and proportionately represents their geographical location in relation to the rest of Scotland i.e. not in a box or placed off

the east coast of Scotland. If for any reason this cannot be done, then there is a duty to provide the reasoning behind the inability to comply.

Other Provisions Coming into Force on 4 October

s.3-s.6 outlines that Scottish Ministers must prepare a national islands plan, the preparation of the plan, report and review of the plan. First draft plan to be laid before the Scottish Parliament by 04 October 2019 – one year from commencement of this provision.

s.15 requires that by regulations, Scottish Ministers must establish a scheme to permit the island local authorities to make requests to promote legislation devolving a function to that authority.

s.18-s.20 refers to representation of island communities in elections to the Scottish Parliament and local government elections, in particular, the number of councillors in wards with inhabited islands and review of wards in certain local government areas.

s.21 requires that by regulations, Scottish Ministers must make a scheme for additional powers requests from the island local authorities. A draft Scottish Statutory Instrument to be laid before the Scottish Parliament by 06 July 2019 – one year from Royal Assent.

s.27 amends the Marine (Scotland) Act 2010 to reflect that delegation of functions relating to regional marine plans does not apply if the delegate is Orkney Islands Council, Shetland Islands Council or Comhairle nan Eilean Siar.

s.28 covers the report of the operation of the Act, which must be published before the end of a period of 4 years from the day after Royal Assent.

s.29 allows Scottish Ministers to make regulations under the Act for incidental, supplementary, consequential, transitional, transitory or saving provisions.

Provisions Not Coming into Force on 4 October

There are two key elements of the Bill that will not be coming into force on 4 October 2018 as guidance, regulations or other preparatory work will be required. The first of these relates to licensing of development activities in the sea around islands.

The second is one of the key policies in the Act - **Island Community Impact Assessments** (ICIA). Every authority listed in the schedule of the Act that has responsibility for policy, strategies, services or legislation will be required to produce an impact assessment if the authority considers that island communities are affected differently.

Under **s.8** of the Act, a relevant authority must prepare an island communities impact assessment in relation to a policy, strategy or service which, in the authority's opinion is, likely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities) in the area in which the authority exercises its functions.

Priority will be given to those provision which have statutory timescales - the National Islands Plan and the Additional Powers Requests. Work on the ICIA and marine licensing provisions are key provisions but consultation with the relevant local authorities will ensure the necessary steps will be set in place prior to their commencement.