RURAL ECONOMY AND CONNECTIVITY COMMITTEE

ISLANDS (SCOTLAND) BILL

SUBMISSION FROM LOCAL GOVERNMENT BOUNDARY COMMISSION FOR SCOTLAND

1. The Islands (Scotland) Bill (“the Bill”) affects the work of the Local Government Boundary Commission for Scotland (“LGBCS”) in two specific areas: Scottish Parliament reviews; and reviews of local government electoral arrangements.

Scottish Parliament

2. Section 13 of the Bill provides for the constituency of Na h-Eileanan an Iar to be added to schedule 1 of the Scotland Act 1998 to protect it from change during a review of the boundaries of Scottish Parliament constituencies. The Bill makes further legislative amendment in consequence, removing it from the calculation for the electoral quota and ensuring it will in future maintain its current designation as a county constituency.

3. Such protection is afforded already to both Orkney and Shetland Scottish Parliament constituencies. The islands are also protected as the two Westminster constituencies of Orkney and Shetland; and Na h-Eileanan an Iar

4. LGBCS has no issues to raise concerning Section 13 of the Bill and agrees with the Bill’s approach.

Reviews of local government electoral arrangements

5. Section 14 of the Bill amends the Local Governance (Scotland) Act 2004 to provide an exception to the usual three or four member rule for electoral wards in relation to wards which consist either wholly or mainly of one or more inhabited islands. In these circumstances the Local Government Boundary Commission for Scotland will have the flexibility to propose wards of one or two members. The rest of this submission focusses on aspects of this proposed flexibility and the review work required.

Definitions

6. There may be a need for some clarification around “wholly or mainly” so it is clear that this refers to electorate rather than population or geographic area, if that is indeed the intention.

Relationship to existing legislation governing reviews

7. The legislation which sets out the rules for electoral reviews is the Local Government (Scotland) Act 1973. When making recommendations, the Commission must consider the criteria set out in Section 13 and Schedule 6 of that Act.
8. Section 13 sets out an overall aim of acting in the interests of effective and convenient local government. Schedule 6 sets out more specific requirements:

- the number of electors per councillor in each ward shall be, as nearly as may be, the same (this is known as parity);

- subject to this, the Commission shall have regard to:
  - local ties that would be broken by fixing a particular boundary; and
  - the desirability of fixing boundaries that are easily identifiable with the first of these taking precedence over the second;

- The Commission may depart from the strict application of electoral parity to reflect special geographical considerations.

9. There is nothing in the Islands (Scotland) Bill that alters that hierarchy of requirements and the Schedule 6 rules remain paramount in informing the number and pattern of wards across a council area as a whole. For that reason, while the powers proposed will give the Commission additional flexibility, it is not possible to predict that this will necessarily deliver an outcome whereby there are more islands comprising whole wards nor that one or two member wards will be used in any particular circumstance. More extensive legislative change would be required to ensure that outcome. The Commission does, however, recognise the challenges facing island communities and that special geographical circumstances may apply in many cases where wards contain an inhabited island or islands. The Commission may therefore consider departure from parity acceptable in any particular case, as we would in any other sparsely populated or remote area.

10. It is important to understand that there may be wider ramifications in terms of councillor numbers within a council as it is the number of councillors that determines the parity benchmark – increasing the number of councillors will result in a lower number of electorate required to achieve parity and may therefore help smaller island communities. This in turn would have implications for the overall number of councillors in Scotland.

11. While not within the scope of the Bill it is worth noting that during the 5th reviews of Electoral Arrangements there were cases where the power to use 2 or 5 member wards on the mainland as well as the islands would have helped design wards that better reflected local ties. These included urban and rural areas. Greater flexibility across Scotland as a whole would benefit all communities, including those on islands.

12. The Commission does not consider electoral outcomes, nor impacts on electoral systems, but there is a potential impact on proportionality. During the 5th Reviews there were respondents who felt a return to single member wards would enable better community ties and stronger local representation. Others argued that the Commission should always use 4 member wards where possible in order to maximise the effect of the STV system. The introduction of the power to use one or two member wards may intensify this debate. Use of a single member ward in particular would appear to have a potentially significant impact on the
electoral system which may not be seen as in the interests of effective and convenient local government.

**Initial analysis**

13. An initial analysis of islands electorates suggests that many of Scotland’s inhabited islands have so few electors that any workable minimum threshold would exclude them from even a single member ward unless significant departure from parity were considered acceptable.

14. Total electorate and overall councillor numbers for any council area determine parity and theoretical councillor entitlement for a ward. The number of electors on an island does not in itself, therefore, determine entitlement to a councillor or councillors. However, as at March 2017 the Commission estimates that:

- There are around 80 islands containing names on the electoral register and that of these about 75% have fewer than 800 electors and attainers (1:800 was the ratio applied to the Category 5 islands councils during the 5th Reviews of Electoral Arrangements).
- Only 3 islands (Arran, Bute and Skye) have electorates greater than 2800 (1:2800 was the ratio for category 4 councils, including Highland, and Argyll and Bute, during the 5th Reviews).
- Around 75% of the islands with electors in the 3 mainland councils have fewer than 200 electors and attainers.

15. Grouping islands together simply to create a single member or two member ward may disregard local ties, particularly where there is a strong connection to the mainland, for example through ferry links. For example, Gigha’s links may be considered to be stronger to the Kintyre peninsula than to neighbouring islands such as Islay or Jura. It is perhaps worth noting that the definition of “wholly or mainly” consisting of an inhabited island or islands may be restrictive; greater flexibility to better balance a ward containing a small inhabited island could be offered if the definition was “wholly or partly”.

**Orkney, Shetland, Na h-Eileanan an Iar**

16. In terms of the legislation, the Commission’s assumption is that within Orkney, Shetland and Na h-Eileanan an Iar council areas, the entire electorate resides on an island as defined in the Bill and that one or two member wards could in theory be used throughout the council areas. The situation of an island population being outnumbered by the mainland part of any ward does not arise. The Commission’s decision on whether to use a 1, 2, 3 or 4 member ward will therefore be based on application of the schedule 6 rules, subject to the overall aim of delivering effective and convenient local government.

**Argyll and Bute, Highland, North Ayrshire**

17. In Argyll and Bute, Highland and North Ayrshire council areas the majority of the electorate resides on the mainland. In only 3 wards is the electorate on an
inhabited island or islands 50% or more of the total ward electorate: Highland ward 10 (Eilean a Cheo); Argyll and Bute ward 8 (Isle of Bute); and Argyll and Bute ward 2 (Kintyre and Isles).

18. Restricting the power to use one or two member wards only to circumstances where the ward is wholly or mainly comprised of an inhabited island may result in greater disruption across the council areas as a whole as well as under-representation of mainland areas. The additional power to use one or two member wards on the mainland as a consequence of creating an island ward would offer greater flexibility.

19. It is likely there will be some commonality of interest between the three councils whose wards are all wholly inhabited island wards and the three predominantly comprised of mainland wards. However, the individual characteristics and geography of each means the Commission will wish to consult fully with each Council in order to consider how use of the power will best contribute to the overall aim of effective and convenient local government.

20. In conducting the reviews the Commission will also have regard to the report of the Local Government and Communities Committee report into the 5th Reviews of Electoral Arrangements published in November 2016. This recommended:

“that the Scottish Government and the Local Boundary Commission for Scotland undertake detailed scrutiny of the legislative framework, process and methodology used in electoral reviews and make recommendations for improvements. The outcome of this work should be reported to the Committee and Parliament and should be completed in advance of Scotland’s sixth electoral review.”

21. The reviews of the 6 councils covered by the Bill will provide an opportunity to consider and trial alternative approaches for example around consultation and engagement with councils and the public.

Timing

22. Section 15 of the Bill requires LGBCS to undertake a review of the 6 local authorities containing inhabited islands “as soon as practicable” after commencement of the legislation.

23. It is our intention to submit our recommendations for these areas in time for implementation for the 2022 local government elections, in other words by May 2021. This will require us to commence the review in the summer of 2018 although we may wish to begin our engagement with the 6 council areas concerned before the legislation completes its passage.

Costs

24. The Commission’s initial cost estimates are as set out in the Financial Memorandum that accompanies the Bill.
All figures in this submission are provisional and based on initial analysis of the March 2017 electoral register. When the Commission commences the review in 2018 full analysis will be undertaken, and consultation with the councils concerned, to ensure all islands electorates have been accurately captured.