1. The Bill creates a duty to publish a national islands plan and lay it before the Scottish Parliament. What are your views on this provision?

OFA welcome the publication of a National islands plan.

The basics should be re-stated and fully understood.

Islands are surrounded by water. The challenges and opportunities of this must be acknowledged. Those who live on islands do so, acknowledging that this geographical difference exists. Islands are not, and should not be viewed as ‘gated communities’ surrounded by water only accessed and occupied by the economically privileged.

Similarly their water boundary protects them from negative aspects of easy access such as opportunist theft with ferry access points acting as deterrents to some of the larger agricultural thefts that can occur on the mainland and many residents see that as a well-being value of their choice to live or remain islanders.

There are different populations that exist on islands.

Those living on islands as an indigenous settled and permanent population who derive their livelihood all year from their surroundings, be that primary, secondary or service industry activity and a transient population exploiting the resources temporarily when short term economic drivers are favourable but who do not live nor have a tangible stake in the preservation of the resources they exploit for future generations.

Another population cohort is the fleeting residential population who use the islands as a venue for temporary recreation as tourists or as temporary residents occupying second homes.

The settled and permanent island population should have priority with regard to all decisions around the development/ non-development of the island in question.

Islands have challenges.

The settled indigenous population endure challenges of weather and connectivity permanently and are not fair-weather dwellers. Their needs can become subsumed by the demands of the secondary temporary populations for whom islands are a service base for leisure and recreation. ‘Island venue living’ or economic choice from materially advantages derived from elsewhere.

The wild resource of islands – in Orkney’s case all the living organisms that make up edible commercial fish stocks; fin fish or shellfish- are at their most basic a
renewable food source for permanent islanders. At the next level they are an exploitable primary resource for the permanent population from which to accrue benefit.

The wild resource also includes all the species habitats, purity of water and environment on which the edible and marketable wild resource depends. All aspects of this resource are currently vulnerable to removal from the settled indigenous island communities either through private sale of sea space, sale or with-holding of access to the resources or spoiling from pollution.

All stages of the biological development of commercial species currently unprotected and their environment also unprotected from human inputs requires legislative protection.

Without stable and guaranteed access to a healthy basic resource, a key fundamental of island economic life is undermined.

Without protection from pollution the resource is endangered.

In terms of Orkney fishery, it is an open-access fishery. It is not protected as a food resource for island inhabitants or as a resource from which inhabitants can derive economic benefit. It is vulnerable to ‘sale’ to outside interests with no economic link to the islands.

Access to the fishing resource out to 12 nautical miles of Orkney should be protected for the domiciled inhabitants through a clear economic link to the islands. These resources to be directly exploited or used to derive benefit in other ways (temporary leasing to others) but crucially with control of the assets resting within the isles.

Those skills that enable the fishing resource to be caught and added benefit accrued, should also be protected. Loss of skills in how to live from the resource leaves an island community ignorant and in danger of literally dying from lack of skill. Fishing is least likely ever to become a robot activity due to the multiple reactive parameters and human interventions of real-time judgement that are constantly required to prosecute it. This trait of fishing therefor should be recognised and place fishing in a category of occupation that requires investment in skills which are unique and removed from the ‘factory model’ of conveyor belt production whether that be automated processing lines or automation of traditional land-based farming or marine fish aquaculture.

**The resident islanders are the most important human element of the islands.**

This may seem obvious but recent developments in Orkney have seen a wholly market driven perspective see the needs of tourists prioritised over the needs of the indigenous community which alters the day- to- day living of the community ( be that ease of access to shops and cafes, traffic increases and road closures, overcrowding at sites, erosion of road verges, respect for community life – weddings and funerals, disruption to harbour access, security fencing and general mass crowd saturation and finally human faces and chemical toilet pollution in public places). The expense that all of this additional human pressure creates to the island community is a cost both social and financial where resources are expected to be diverted from the services the resident population has call on, to those that the visiting transient tourist population or the companies that are seeking the cheapest destination for
their company profits demands. There is clearly a balance to be sought but it may be that the local authority is not equipped to mediate these demands in the interests of the population it serves and protections need to be put in place to avoid overburdening islands with human pressures as do other islands in the world (i.e. Fernando Do Noronha Brasil).

2. The Bill will require Scottish Ministers and certain Scottish public authorities, to prepare island impact assessments. Do you agree with this provision?

OFA agree that there should be island impact assessments and that these should prioritise the impacts on the settled indigenous people living within the islands first. These impacts will be to mitigate legislation leading to activities from outside that will impact upon the islands.

A number of regulations adversely affect fishing:

EU State Aid regulations dis-benefits island fishermen unfairly and fail to recognise the unequal playing field from which island fishermen start.

Fishermen’s economic status as self-employed persons discriminates them from accessing financial services, mortgages and welfare benefits. There should be no discrimination against island fishermen from private and public services available to other members of society.

Fishermen’s safety should be prioritised when any legislation or planning application for development where fishermen operate is considered.

Services that are directly linked to fishermen’s legal pursuit of their commercial activity should be provided to fishermen which include access through digital means to relevant governmental sites advising of legal changes to their fishing activities i.e. ‘weekly license updates’ online which many cannot access due to poor connectivity yet are obligated to view or be in breach of their license conditions.

Island fishermen should not be discriminated against in respect of access to Doctor’s providing ENG1 medicals or MCA inspectors providing obligatory vessel surveys. Lack of access to MCA surveyors can result in vessels being removed from the Cardiff vessel registry and cessation of all commercial activity. Isles fishermen can miss out on commercial activity due to shortages of surveyors and doctors or expense and time taken locating those on the mainland.

OFA believe that the primary economic activity in particular wild commercial fishing, currently undertaken within islands, should merit firstly consolidation and secondly protection from external economic predation – be that purchase of resources which remove control form local communities and fishers, or remove money and business resilience from within the islands communities. The model of family owned businesses registered within isles, economically linked to the isles and run by those domiciled within the isles should have protections over predatory large multi nationals.

How do you think it should work in practice?

In respect of fishing, which is poorly represented sectorally at local political level, the IFG (Orkney Sustainable Fisheries Ltd) and Orkney Fisheries Associations should
be statutory consultees on all legislation that may impact the islands fishing industry. The ethos should be ‘if in doubt ask the fishermen’.

3. The Bill proposes to protect the Scottish Parliamentary constituency boundary of Na h-Eileanan an Iar (the Western Isles) from change. Do you agree with this?

Yes

4. The Bill proposes to make an exception to the rules for local government electoral wards to allow areas with inhabited islands to return 1 or 2 members (instead of the usual 3 or 4). What are your views on this proposal?

OFA would comment that numbers of representatives are not the issue but quality of representation. That in areas where representatives are not selected on policies or manifestoes there can be significant omissions in representations where these may favour particular personal sectoral interests to the detriment of others or favour particular social and or gender groups. Islands do not behave like large central belt authorities. Many people with community energy and concern are excluded from participation in local democracy because of the nature of their jobs. Self-employed people like fishermen who work with weather and seasons cannot leave their jobs, lose a day’s pay, to attend meetings.

Small communities operate with different pressures compared to large anonymous city wards.

Charismatic and powerful characters can accrue a ‘tribal’ following which is overly personality based, can lack accountability and harbour prejudices and favoured personal projects or sectors of the community. There are no checks and balances to test those systemic biases within local democracy. Conflicts of interest are impossible to avoid within small isles communities.

Local authority politicians can in some circumstances attain an ‘untouchable’ and ‘unaccountable’ arrogance from incumbency which remains untested in terms of transparent accountability to their constituents. Constituents abdicate all checks and balances to the elected ‘independent’ or manifesto-less member at the point of election only to resume a fleeting part in the process four years later when re-election comes round.

It may be that an external independent arbiter should be introduced to whom grievances can be taken purely to enable greater transparency as a result of the particular circumstances that prevail in small communities.

5. The Bill will provide a regulation-making power for the Scottish Ministers to create a marine licensing scheme for coastal waters. Do you agree with this power?

OFA believe there needs to be safeguards and caveats to prevent neglect of unrepresented interests in this case commercial inshore fishermen who are the important human beings living and deriving economic benefit from the marine environment.
Licensing also should be mindful that terrestrial mindsets of boundaries and land-based property-type demarcation do not fit with the activity of fishing which results from the pursuit of wild stocks which live breed and move through all types of boundary – local to international, through all depths of the water column and fishing as an activity follows their behaviour. There is a ‘need to roam’ over large ‘search areas’ which can be negatively interrupted by imposing land-based thinking on that environment. The interruption of fishing tows by physical impediments that take up what appears as a negligible small footprint of sea ‘area’ may completely alter the economic viability of a fishing activity that relies on trawling or drift diving in a particular direction, using particular currents and over a particular type of sea bed. These things remain poorly understood in land-based terrestrial planning mind sets.

Do you have any comments on how it should be used?
With reference to the comments and observations above relating to the needs of fishing, such powers in turn need to be ‘fishing proofed’. Fishermen and their representatives need a stronger voice in all political decisions that affect islands. This voice also needs to be listened to and acted upon.

6. Does the Bill achieve its aims and are you in favour overall? Is there anything else that you feel should be included or excluded from the Bill?

Inward migration of ‘lifestyle’ dwellers skew island economies and perceptions. Wealthy economic migrants from richer areas of the UK alter the economies of the isles to make living within the isles more challenging as house prices increase, second home and holiday dwelling increases and access to the purchase of property, pressure on rental property availability and rental prices increase. These economic drivers all affect retention and recruitment of fishermen within the community.

The basic living rights of access to an affordable home within your community adversely affect the settled domiciled island populations where take-home salaries are below the national average (£17k P/a average in Orkney. HIE stats confirm).

The working population within the islands need some protection from economic disadvantage emanating from an economic system that enables market prices in other areas of the country to become so disproportionate that their incomes cannot compete with access to basic fundamental human rights of shelter. Recent large increases in tourism numbers threaten these further as more householders opt to access lucrative tourist rentals over local long term lets. There requires to be a protection within islands of the available public and private housing stock for islanders much as National Parks (Lake District) operate in order that islanders can access housing.

Access to digital connection is no longer a luxury but akin to a basic human right. For fishermen the law requires that they check governmental websites weekly to ensure they are compliant with any licence changes that affect the legality of their fishing. In many island areas poor or non-existent phone and internet connectivity does not allow them to comply with the law. With connectivity a reserved function some means needs to be found to enable fishermen to comply with their legal obligations. At the least fishermen should never be penalised for failures to access communications that result from poor investment in connectivity at a UK level.
7. Do you have any comments on the bill in relation to human rights or equalities?

Islanders have a right to gain a living from the sea. This is absolutely fundamental and should be enshrined within the bill. Fishermen have no ‘rights’ in law to fish. The only ‘right’ that can be found in law is the ‘public right to fish’ in the 1707 Act of Union. Fishermen also have a right to expect access to the same services that others within society enjoy – access to mortgages, welfare benefits and housing. The human rights of fishermen which are below those of the average citizen at present, need to be upheld within this bill.

Sources

https://en.wikipedia.org/wiki/Fernando_de_Noronha

file:///C:/Users/User/Downloads/HIE+area+profile++Orkney.pdf

Orkney Fisheries Association

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