

# Islands (Scotland) Bill

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## Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 24  
Long Title

Schedule

Amendments marked \* are new (including manuscript amendments) or have been altered.

### Section 2

#### Liam McArthur

- 1** In section 2, page 1, line 19, leave out from <geography,> to end of line 22 and insert <geography (including in relation to any uninhabited island whose natural environment and terrestrial, marine and associated ecosystems contribute to the natural or cultural heritage or economy of an inhabited island).>

### Section 2A

#### Humza Yousaf

- 6** Leave out section 2A

### Section 3

#### Humza Yousaf

- 7** In section 3, page 2, line 18, leave out <taking steps to increase the population of islands and> and insert <—  
( ) increasing population levels,  
( )>

#### John Mason

- 17** In section 3, page 2, line 20, at end insert—  
<( ) environmental wellbeing,>

#### Liam McArthur

- 18** In section 3, page 2, line 22, at end insert—  
<( ) improving transport services.>

**Liam McArthur**

- 19 In section 3, page 2, line 22, at end insert—  
<( ) improving digital connectivity.>

**Liam McArthur**

- 20 In section 3, page 2, line 22, at end insert—  
<( ) reducing fuel poverty.>

**Liam McArthur**

- 21 In section 3, page 2, line 22, at end insert—  
<( ) ensuring effective management of the Scottish Crown Estate (that is, the property, rights and interests to which section 90B(5) of the Scotland Act 1998 applies).>

**John Finnie**

- 22 In section 3, page 2, line 22, at end insert—  
<( ) enhancing biosecurity (including protecting islands from the impact of invasive non-native species).>

**Jamie Greene**

- 23 In section 3, page 2, line 23, at end insert—  
<( ) In setting out their main objectives in the plan, the Scottish Ministers must consider and outline, in so far as possible, what would be appropriate to use for the purpose of measuring (whether quantitatively or qualitatively) the extent to which outcomes for island communities identified in the plan are improved.>

**Section 4**

**John Mason**

- 8 In section 4, page 2, line 31, after <by> insert <or have an interest in>

**Section 8**

**Peter Chapman**

- 24 In section 8, page 4, line 23, after <have> insert <or have had>

**Peter Chapman**

- 25 In section 8, page 5, line 1, at beginning insert <which, in the authority’s opinion, is likely to have or have had an effect on an island community which is significantly different from its effects on other communities (including other island communities) in the area in which the authority exercises its functions,>

**Colin Smyth**

- 26 In section 8, page 5, line 1, leave out <it must publish> and insert <which has an effect on an island community, it must publish, as soon as reasonably practicable afterwards and in such manner as it considers appropriate,>

**After section 8**

**Humza Yousaf**

- 9 After section 8, insert—

**<Reviews of decisions relating to island communities impact assessments**

- 5 (1) The Scottish Ministers may by regulations make provision about reviews of decisions of relevant authorities relating to island communities impact assessments under section 8(1).
- (2) Regulations under subsection (1) may, in particular, make provision about—
- 10 (a) the procedure to be followed in connection with reviews,  
(b) the manner in which reviews are to be conducted,  
(c) the time limits within which applications for reviews are to be made,  
(d) the circumstances under which applications for reviews may or may not be made,  
(e) the persons to whom applications for reviews may be made, and  
(f) the steps that may be taken by a relevant authority following a review.>

**Colin Smyth**

- 9A As an amendment to amendment 9, line 3, leave out <may> and insert <must>

**Section 9**

**Humza Yousaf**

- 10 In section 9, page 5, line 3, at end insert—
- <( ) by making such arrangements as it considers appropriate to review any policy, strategy or service (as the case may be) which it develops or delivers in carrying out its functions, and
- ( ) either—>

**Section 10**

**Tavish Scott**

- 2 In section 10, page 5, line 16, at end insert—
- <( ) Subsection (1) does not apply unless—
- (a) the Scottish Ministers have laid a copy of any guidance they propose to issue before the Scottish Parliament, and
- (b) the Parliament has by resolution approved the guidance.>

## Section 12

### Humza Yousaf

11 In section 12, page 6, line 12, at end insert—

<( ) An island communities impact assessment under subsection (1) is taken to be an islands communities impact assessment under section 8(1) in relation to the policy, strategy or service of the Scottish Ministers to be implemented by the legislation.>

## After section 12

### Tavish Scott

4 After section 12, insert—

**<Requirement for island communities impact assessment on waste legislation and strategies**

(1) The Scottish Ministers must prepare an island communities impact assessment in relation to existing legislation and strategies on waste management.

(2) In subsection (1)—

“legislation” means any—

(a) Act of the Scottish Parliament,

(b) subordinate legislation—

(i) made in exercise of powers conferred by an Act of the Scottish Parliament,

(ii) made in exercise of powers conferred by section 2(2) of the European Communities Act 1972,

(iii) relating to Scotland made in exercise of powers conferred by an Act of Parliament enacted before 1st July 1999,

“strategies” means any strategy or framework prepared and published by the Scottish Ministers,

“legislation and strategies on waste management” means such legislation and strategies as regulate the recovery and disposal of waste in Scotland and are in force on the day of Royal Assent.

(3) The island communities impact assessment prepared under subsection (1) must—

(a) describe the effect of the legislation and strategies on the recovery and disposal of waste in island communities,

(b) assess the extent to which the options available for disposal, and the costs, benefits and environmental impacts of those options, are different in islands communities,

(c) set out options to mitigate, for island communities, the outcomes resulting from the legislation and strategies,

(d) the steps (if any) the Scottish Ministers intend to take to amend legislation and strategies to rectify, mitigate or improve their effect in relation to island communities.

- (4) The island communities impact assessment prepared under subsection (1) must be—
  - (a) published no later than one year after Royal Assent,
  - (b) laid before the Scottish Parliament.>

**Liam McArthur**

**12\*** After section 12, insert—

**<Duty of the Scottish Ministers to have regard to request for retrospective island communities impact assessment**

- (1) A local authority listed in the schedule may make a request to the Scottish Ministers to prepare and publish a retrospective island communities impact assessment in relation to existing legislation or national strategies which have an effect on an island community which is significantly different from their effect on other communities (including other island communities) in Scotland.
- (2) Following receipt of a request made under subsection (1), the Scottish Ministers must, within 3 months, confirm in writing—
  - (a) their approval of the request, or
  - (b) their reasons for not approving the request.
- (3) If the Scottish Ministers approve a request under subsection (2)(a), they must prepare and publish a retrospective island communities impact assessment under subsection (1) within 6 months of the date of their decision.
- (4) In this section—
  - “legislation” means—
    - (a) an Act of the Scottish Parliament, and
    - (b) subordinate legislation made under an Act of the Scottish Parliament,
  - “national strategies” means any strategy or framework prepared and published by the Scottish Ministers.
- (5) A retrospective island communities impact assessment must include—
  - (a) a description of the methods and data used to assess the effect on island communities,
  - (b) the steps (if any) the Scottish Ministers intend to take to rectify, mitigate or improve the effect of the legislation or national strategy on island communities.>

**Colin Smyth**

**28\*** After section 12, insert—

**<Scheme for requests by local authorities to improve or mitigate effect of legislation**

- (1) The Scottish Ministers must by regulations establish a scheme for the making by a local authority listed in the schedule of a request to them to amend legislation for the purpose of improving or mitigating any demonstrably detrimental effect the legislation has on one or more island communities.
- (2) In subsection (1), “legislation” means any—
  - (a) Act of the Scottish Parliament, and

- (b) subordinate legislation—
  - (i) made in exercise of powers conferred by an Act of the Scottish Parliament,
  - (ii) made in exercise of powers conferred by section 2(2) of the European Communities Act 1972.
- (3) Regulations under subsection (1) must include provision specifying—
  - (a) the manner and form in which a request is to be made,
  - (b) the information that an authority must provide when making a request,
  - (c) the process by which, and the period within which, the Scottish Ministers must consider and decide on the request,
  - (d) the actions which the Scottish Ministers must take following their decision to approve or reject the request,
  - (e) the period within which those actions must be taken,
  - (f) the manner, form and period within which an authority may appeal against decisions of the Scottish Ministers in relation to a request.
- (4) Regulations under subsection (1) may include provision—
  - (a) specifying consultation to be undertaken by an authority before making a request,
  - (b) that the information mentioned in subsection (3)(b) must include—
    - (i) information identifying the outcomes that would be improved by virtue of amending the legislation,
    - (ii) evidence of community support (including the support of island communities) for amending the legislation.
- (5) Before laying a draft of regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers must consult—
  - (a) each local authority listed in the schedule,
  - (b) such other persons as they consider appropriate.>

**Colin Smyth**

27\* After section 12, insert—

**<Scheme for requests by local authorities for devolution of functions**

- (1) The Scottish Ministers must by regulations establish a scheme for the making by a local authority listed in the schedule of a request to them to promote legislation devolving a function to the authority.
- (2) Regulations under subsection (1) must include provision specifying—
  - (a) the manner and form in which a request is to be made,
  - (b) the information that an authority must provide when making a request,
  - (c) the process by which, and the period within which, the Scottish Ministers must consider and decide on the request,
  - (d) the actions which the Scottish Ministers must take following their decision to approve or reject the request,
  - (e) the period within which those actions must be taken,

- (f) that a decision of the Scottish Ministers to devolve a function following a request may be a decision to devolve that function to the authority that made that request or to that authority and to one or more of the other local authorities listed in the schedule,
  - (g) the manner, form and period within which an authority may appeal against decisions of the Scottish Ministers in relation to a request.
- (3) Regulations under subsection (1) may include provision—
- (a) specifying consultation to be undertaken by an authority before making a request,
  - (b) that the information mentioned in subsection (2)(b) must include—
    - (i) information identifying the outcomes that would be improved by virtue of devolution of the function requested,
    - (ii) evidence of community support (including the support of island communities) for the promotion of such devolution.
- (4) Before laying a draft of regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers must consult—
- (a) each local authority listed in the schedule,
  - (b) such other persons as they consider appropriate.>

**Tavish Scott**

5\* After section 12, insert—

*<Duty to consult island communities*

**Duty to consult island communities**

- (1) The Scottish Ministers must consult island communities before making a material change to any—
- (a) policy,
  - (b) strategy, or
  - (c) service,
- which, in the Scottish Ministers’ 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.
- (2) The persons consulted under subsection (1)—
- (a) must include each local authority listed in the schedule, and
  - (b) may include such other bodies or persons as the Scottish Ministers determine.
- (3) No later than three months after the day on which a consultation under subsection (1) is concluded, the Scottish Ministers must publish—
- (a) the responses received to the consultation,
  - (b) information about the steps which it will take following the consultation.
- (4) Where the Scottish Ministers do not consider that a material change to any—
- (a) policy,
  - (b) strategy, or

(c) service,

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, a local authority listed in the schedule may request that the Scottish Ministers consult island communities under subsection (1) before making the change.

- (5) Where the Scottish Ministers receive a request under subsection (4), they must—
- (a) undertake a consultation under subsection (1), or
  - (b) publish an explanation of their reasons for not undertaking a consultation under subsection (1).>

### **Tavish Scott**

3 After section 12, insert—

#### *<Shetland mapping requirement*

##### **Shetland mapping requirement**

- (1) There is to be a Shetland mapping requirement.
- (2) When publishing in any form a document that includes a map of Scotland, a Scottish public authority must comply with the Shetland mapping requirement.
- (3) Where a Scottish public authority is unable to comply with the duty imposed by subsection (2), the public authority must publish, in such manner as it considers appropriate, information about the reasons why it is unable to comply with the duty.
- (4) The Shetland mapping requirement is that, in any map of Scotland, the Shetland Islands must be displayed in a manner that accurately and proportionately represents their geographical location in relation to the rest of Scotland.>

### **Section 14**

### **Jamie Greene**

29 In section 14, page 7, line 8, at end insert—

<( ) In schedule 6 of the Local Government (Scotland) Act 1973 (rules to be observed in considering electoral arrangements), after paragraph 1(2), insert—

“(2A) Without prejudice to the generality of paragraph 2 of this Schedule, subparagraph (2) above does not apply to an electoral ward, within a local authority which comprises the mainland of Scotland and islands (within the meaning of section 1(2) of the Islands (Scotland) Act 2018), where that ward consists wholly or partly of one or more inhabited islands.”.>

### **After section 15**

### **Liam McArthur**

**Supported by: Colin Smyth**

13\* After section 15, insert—

#### **<PART**

#### **ADDITIONAL POWERS REQUESTS**

### **Additional powers requests**

- (1) The Scottish Ministers must, by regulations, make a scheme for additional powers requests.
- (2) A scheme under subsection (1) is to set out a process by which—
  - (a) a local authority listed in the schedule (a “relevant local authority”) may request that additional functions, duties or responsibilities are transferred to the authority,
  - (b) the Scottish Ministers are to determine what action (if any) they intend to take in response to such a request,
  - (c) the Scottish Ministers are to publish a statement setting out how and when such action is to be taken,
  - (d) a relevant local authority may request a review of the Scottish Ministers’ determination.
- (3) A scheme under subsection (1) must provide that—
  - (a) a relevant local authority must demonstrate reasonable cause for making a request,
  - (b) the Scottish Ministers must not unreasonably refuse to grant the request.
- (4) A draft Scottish statutory instrument containing the first regulations under subsection (1) must be laid before the Scottish Parliament before the end of the period of one year beginning with the day of Royal Assent.>

### **After section 20**

#### **Humza Yousaf**

- 14** After section 20, insert—

#### **<PART**

#### **DELEGATION OF FUNCTIONS RELATING TO REGIONAL MARINE PLANS**

#### **Delegation of functions relating to regional marine plans**

In section 12 of the Marine (Scotland) Act 2010, after subsection (2) insert—

- “(2A) But the requirement in subsection (2) does not apply in relation to a delegate where—
- (a) that delegate is either—
    - (i) Orkney Islands Council,
    - (ii) Shetland Islands Council, or
    - (iii) Comhairle nan Eilean Siar, and
  - (b) before making the direction, the Scottish Ministers are satisfied that there would be difficulty in nominating any other person described in that subsection in relation to the regional marine plan to which the direction applies.”.>

## Before section 21

### Jamie Greene

31 Before section 21, insert—

*<Report on operation of Act*

#### **Report on operation of Act**

- (1) Before the end of the period of 4 years beginning with the day after Royal Assent, the Scottish Ministers must publish and lay before the Scottish Parliament a report on the operation of this Act.
- (2) In preparing the report, the Scottish Ministers must consult—
  - (a) such relevant authorities listed in the schedule as they consider appropriate, and
  - (b) such other persons as they consider appropriate.>

## Section 21

### Humza Yousaf

15 In section 21, page 11, line 23, at end insert—

*<( ) under section (Reviews of decisions relating to island communities impact assessments)(1),>*

### Colin Smyth

33\* In section 21, page 11, line 23, at end insert—

*<( ) under section (Scheme for requests by local authorities to improve or mitigate effect of legislation)(1),>*

### Colin Smyth

32\* In section 21, page 11, line 23, at end insert—

*<( ) under section (Scheme for requests by local authorities for devolution of functions)(1),>*

### Liam McArthur

16 In section 21, page 11, line 23, at end insert—

*<( ) under section (Additional powers requests)(1),>*

## Schedule

### Colin Smyth

34 In the schedule, page 14, line 32, leave out from <under> to the end of line 33 and insert < by virtue of section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014>

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