

ISLANDS (SCOTLAND) ACT 2018

EXPLANATORY NOTES

OVERVIEW OF THE ACT

PART 4 – REPRESENTATION OF ISLAND COMMUNITIES

Elections to the Scottish Parliament

Section 18 – Constituency of Na h-Eileanan an Iar

41. This section secures special status for the existing Scottish Parliamentary constituency of Na h-Eileanan an Iar by adding it into schedule 1 of the Scotland Act 1998 (“the 1998 Act”) as a constituency protected from variation following a boundary review by the Local Government Boundary Commission for Scotland. Orkney and Shetland are already listed in the 1998 Act as constituencies which are protected in this manner. The geographical area of the Na h-Eileanan an Iar constituency is the same as the council area of Comhairle nan Eilean Siar.
42. Subsection (1) of this section also alters the rules by which the Local Government Boundary Commission for Scotland determines the average size of the electorate for the remaining constituencies not protected from variation: in consequence of giving Na h-Eileanan an Iar excepted status it is removed from both the definition of the “total electorate” and the method of calculating the “electoral quota” in paragraph 12 of schedule 1 of the 1998 Act.
43. All Scottish Parliamentary constituencies with the current exception of Orkney and Shetland are provided for by the Scottish Parliament (Constituencies and Regions) Order 2014 ([S.I. 2014/501](#)) (“the 2014 Order”), made under paragraph 6 of schedule 1 of the 1998 Act. Subsection (2) of this section removes the 2014 Order’s provision for Na h-Eileanan an Iar, again in consequence of protecting it from variation in the 1998 Act.
44. A separate Order in Council – the Scottish Parliament (Elections etc.) Order 2015 ([S.S.I. 2015/425](#)) (“the 2015 Order”) – deals with the conduct of elections to the Scottish Parliament, and contains different expense rules for “burgh” and “county” constituencies (reflecting previous local government law). Na h-Eileanan an Iar is deemed to be a county constituency under the 2014 Order: therefore, after its removal from the 2014 Order by subsection (2) of this section, subsection (3) amends article 42 of the 2015 Order to ensure that Na h-Eileanan an Iar is still treated as a county constituency for the conduct of elections – with the result that the maximum level of expenses in the 2015 Order for a county constituency will continue to apply.

Local government elections

Section 19 – Number of councillors in wards with inhabited islands

45. The Local Government Boundary Commission for Scotland and the Scottish Ministers are obliged, under section 28(2) of the Local Government (Scotland) Act 1973 (“the 1973 Act”), to implement electoral arrangements in accordance with section 1 of the

Local Governance (Scotland) Act 2004 (“the 2004 Act”). Currently this includes the requirement for there to be three or four councillors returned per electoral ward in Scotland.

46. This section of the Act amends the 2004 Act to provide an exception to the usual three or four member rule for electoral wards in relation to wards which consist either wholly or partly 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.
47. This new power would form part of the existing framework of rules for the consideration of local electoral arrangements, set out in section 13 and schedule 6 of the 1973 Act, which require the Commission and Ministers to take into account:
 - the interests of effective and convenient local government;
 - that each councillor should as near as possible represent the same number of electors;
 - the desirability of fixing boundaries that are easily identifiable;
 - any local ties which would be broken by making a particular boundary; and
 - special geographic considerations that may need different treatment.

Section 20 – Review of wards in certain local government areas

48. This section provides that as soon as practicable following commencement the Local Government Boundary Commission for Scotland must undertake a review of the electoral arrangements for each of the six local authority areas named in subsection (2) – these are the areas currently containing inhabited islands as defined by section 1 of the Act.
49. Subsection (3) applies Part 2 of the 1973 Act, on the procedure for local government boundary reviews, to the review under subsection (1) – with the important modification that the Local Government Boundary Commission must submit its review findings to the Scottish Ministers by a date specified by Ministers, rather than according to the timescales set out in section 17(1) of the 1973 Act. Following this, Ministers will have the power under section 17(2) of the 1973 Act to make an order to implement the Commission’s proposals.
50. The effect of subsection (4) is that the specific review of island areas under subsection (1) will be discounted for the purposes of the general rolling 8-12 year timetable for the Commission’s reviews, prescribed under section 16(2) of the 1973 Act.