



# Islands (Scotland) Act 2018

## 2018 asp 12

### PART 3

#### DUTIES IN RELATION TO ISLAND COMMUNITIES

##### *Duties of certain authorities in respect of policies, strategies and services*

#### **7 Duty to have regard to island communities**

- (1) A relevant authority must have regard to island communities in carrying out its functions.
- (2) In this Part, a “relevant authority” means a body, office-holder or other person listed in the schedule.
- (3) The Scottish Ministers may by regulations amend the schedule by—
  - (a) adding an entry for any person, body or office-holder,
  - (b) varying the description of an entry, or
  - (c) removing an entry.

#### **8 Island communities impact assessment**

- (1) A relevant authority must prepare an island communities impact assessment in relation to a—
  - (a) policy,
  - (b) strategy, or
  - (c) 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.
- (2) Subsection (1) applies to the development, delivery and redevelopment of the policy, strategy or service (as the case may be).
- (3) An island communities impact assessment prepared under subsection (1) must—

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- (a) describe the likely significantly different effect of the policy, strategy or service (as the case may be), and
  - (b) assess the extent to which the authority considers that the policy, strategy or service (as the case may be) can be developed or delivered in such a manner as to improve or mitigate, for island communities, the outcomes resulting from it.
- (4) If a relevant authority does not prepare an island communities impact assessment in relation to a—
- (a) policy,
  - (b) strategy, or
  - (c) service,
- 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, an explanation of its reasons for not doing so.

## **9       Reviews of decisions relating to island communities impact assessments**

- (1) The Scottish Ministers must 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—
- (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.

## **10       Compliance with section 7 duty**

- A relevant authority demonstrates compliance with the duty imposed by section 7—
- (a) 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
  - (b) either—
    - (i) in the case where the authority must prepare an island communities impact assessment under section 8(1), by preparing that assessment, or
    - (ii) in any other case, by making such an assessment or taking such other steps as the authority considers appropriate.

### *Guidance and reporting*

## **11       Guidance about section 7 duty**

- (1) A relevant authority must have regard to any guidance issued by the Scottish Ministers about the duty imposed by section 7.
- (2) Before issuing guidance under subsection (1), the Scottish Ministers must consult—

- (a) each local authority listed in the schedule,
- (b) such other persons as they consider represent the interests of island communities, and
- (c) such persons as they consider likely to be affected by the guidance.

## **12 Reporting regarding section 7 duty**

- (1) A relevant authority to which the duty imposed by section 7 applies in a reporting period must publish information about the steps which the authority has taken to comply with that duty during that reporting period.
- (2) A “reporting period” is any period determined by the authority of up to a maximum of one year.
- (3) The relevant authority may publish the information in such manner as the authority considers appropriate (for example in an annual or other report prepared by the authority).
- (4) Subsection (1) does not apply to the Scottish Ministers (see section 5).

### *Duties of the Scottish Ministers in respect of legislation and strategies*

## **13 Preparation of island communities impact assessment by Ministers**

- (1) The Scottish Ministers must prepare an island communities impact assessment in relation to legislation 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.
- (2) In subsection (1), “legislation” means—
  - (a) a Bill for an Act of the Scottish Parliament which the Scottish Ministers intend to introduce in the Parliament, and
  - (b) subordinate legislation which is—
    - (i) to be made by the Scottish Ministers and is subject to the negative procedure, or
    - (ii) to be laid in draft before the Scottish Parliament and, subject to the affirmative procedure, to be made by the Scottish Ministers.
- (3) An island communities impact assessment prepared under subsection (1) must—
  - (a) describe the likely significantly different effect of the legislation,
  - (b) assess the extent to which the Scottish Ministers consider that the legislation can be developed in such a manner as to improve or mitigate, for island communities, the outcomes resulting from the legislation, and
  - (c) set out the financial implications of steps taken under this subsection to mitigate, for island communities, the outcomes resulting from the legislation.
- (4) An island communities impact assessment under subsection (1) is taken to be an island 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.

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#### **14 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.

#### **15 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.

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- (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.

*Duty of the Scottish Ministers to consult island communities*

**16 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).

*Shetland mapping requirement*

**17 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, the Scottish Ministers, a local authority and any other Scottish public authority with mixed functions or no reserved functions must—
  - (a) comply with the Shetland mapping requirement, or
  - (b) 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.
- (3) 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.