

ISLANDS (SCOTLAND) ACT 2018

EXPLANATORY NOTES

OVERVIEW OF THE ACT

PART 8 – FINAL PROVISIONS

Report on operation of Act

Section 28 – Report on operation of Act

79. Section 28 requires Scottish Ministers to publish and lay before the Scottish Parliament a report on the operation of the Act. This is required before the end of 4 years after Royal Assent. In preparing the report, Ministers must consult such of the relevant authorities listed in the schedule and such others as they consider appropriate.

Regulations

Section 29 – Regulations

80. Subsection (1) of this section provides that the powers of the Scottish Ministers to make regulations under this Act include additionally the power to make different provision for different purposes and to make incidental, supplementary, consequential, transitional, transitory or saving provision. Subsection (2) provides that regulations under sections 7(3), 9(1), 21 and 24(1) are subject to the affirmative Parliamentary procedure.
81. However, subsection (3) provides that this section does not apply to ancillary regulations under section 30(1); or to commencement regulations under section 30(2). By virtue of section 30(2) of the Interpretation and Legislative Reform (Scotland) Act 2010, such commencement regulations will simply be laid before Parliament as soon as practicable after being made, with no further procedure.

Section 30 – Ancillary provision

82. Subsection (1) of this section gives the Scottish Ministers a freestanding regulation-making power to make any incidental, supplementary, consequential, transitional, transitory or saving provision that they consider appropriate for the purposes of, or in connection with, giving full effect to the Act. Subsection (2) allows such regulations to modify any enactment (including the Act itself).
83. Subsection (3) provides that regulations under subsection (1) which amend the text of primary legislation will be subject to the affirmative Parliamentary procedure. Otherwise they will be subject to the negative Parliamentary procedure.

Commencement and short title

Section 31 – Commencement

84. Subsection (1) of this section provides that this section and sections 1, 2, 30, and 32 come into force on the day after Royal Assent. The remainder of the Act, once enacted,

*These notes relate to the Islands (Scotland) Act 2018
(asp 12) which received Royal Assent on 6 July 2018*

comes into force on the day or days appointed by the Scottish Ministers in regulations made under subsection (2).

85. Subsection (3)(a) provides that these commencement regulations may also include transitional, transitory or saving provision. It should be noted that these aspects are not substantive powers but are dependent on commencement. Subsection (3)(b) provides that the regulations may appoint different days for different purposes.

Section 32 – Short title

86. This section provides that the Act is referred to as the Islands (Scotland) Act 2018.