

# ISLANDS COMMUNITIES IMPACT ASSESSMENT

## The Community Orders (Coronavirus) (Scotland) Regulations 2021

### Introduction

1. The Islands (Scotland) Act 2018 provides for a duty on Scottish Ministers and other relevant public bodies that they must have regard to island communities in exercising their functions and in the development of legislation.

### Background

2. CPOs are community sentences which contain one or more of nine possible requirements, including that of unpaid work (UPW) or other activity<sup>1</sup>. They are issued by the court and are implemented by local authorities through justice social work (JSW) services who carry out the supervision of those on orders, organise and oversee UPW, and report back to the courts on progress and any potential breaches. In terms of scale, in 2018/19, 16,400 CPOs were imposed, of which 73% had an UPW requirement.
3. As a result of COVID-19, JSW services have experienced difficulties in continuing to implement CPOs, particularly in delivering UPW or other activity requirements, which are often carried out in groups. The Coronavirus (Scotland) Act 2020 (the 2020 Act) extended all UPW requirements by 12 months (and required all new orders to be at least that long) in order to help resolve the immediate issues arising from the crisis, allowing JSW services to safely suspend UPW programmes during the first national lockdown without any orders being inadvertently breached as a result.
4. While this immediate step was successful in ensuring that JSW could continue to function effectively in the short to medium term, Social Work Scotland (SWS) has raised significant concerns about the deliverability of outstanding UPW requirements. Capacity within JSW to deliver UPW has remained substantially reduced primarily due to measures designed to keep individuals on orders and staff safe (e.g. physical distancing) as well as varying national and local restrictions, affecting some areas more than others. In addition, there was also an increase in court business and new community order disposals from summer (as restrictions began to ease) to January 2021, when the majority of summary court business was adjourned due to the increased level of public health risk associated with coronavirus and to align with national restrictions.
5. In order to address the concerns raised by SWS and to alleviate the pressure on JSW services, regulations are being brought forward using powers in the Coronavirus (Scotland) Act 2020 to vary, on a proportionate and limited basis,

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<sup>1</sup> Unpaid work or other activity is a single requirement. The number of hours imposed by the court can be allocated between the two different aspects by the responsible officer within the relevant local authority, though other activity cannot constitute more than 30 hours or 30% of the total number of hours imposed, whichever is lower.

UPW or other activity requirements in CPOs. Subject to agreement by the Scottish Parliament, the regulations will vary all unpaid work (UPW) or other activity requirements in Community Payback Orders (CPOs), reducing the number of hours imposed in each order by 35%. These regulations apply to all CPOs imposed prior to the regulations coming into force with an unpaid work or other activity requirement where hours are outstanding. The only exceptions are those CPOs imposed either entirely or partially for domestic abuse, sexual offences or stalking

6. Further detailed information on the regulations can be found in the policy note.

## **Conclusion**

7. The Scottish Government does not consider that the measures within the regulations will have an effect on island communities which is significantly different from the effect on other communities.
8. The powers to vary UPW requirements in CPOs will be applied consistently across all such orders in Scotland, to relieve pressure on all local authority JSW services during the recovery phase and post-pandemic period.
9. While there may be some small advantage to island-based JSW services where access to services may be more limited than in other more populated areas of Scotland, this will not be of such significance as to merit a full ICIA.
10. As staffing capacity may, at any given time, be lower within island local authority JSW services, this does mean that any backlog in orders or significant increase in demand through new orders could quickly become unmanageable in an island setting. Taking action to reduce capacity pressure on local authority JSW services is expected to support effective service delivery in all authorities, and should benefit island communities.