

# Islands (Scotland) Bill

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## 2nd Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 7	Schedule
Sections 8 to 24	Long Title

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

### Section 7

#### Jamie Greene

- 43 In section 7, page 3, line 24, after <have> insert <due>

#### John Mason

- 44 In section 7, page 3, line 24, after <to> insert <islands and>

#### Jamie Greene

- 45 In section 7, page 3, line 25, at end insert <, insofar as it is capable.>

#### Humza Yousaf

- 5 In section 7, page 3, line 29, after <office-holder,> insert—  
<( ) varying the description of an entry,>

#### Jamie Greene

- 46 In section 7, page 3, line 30, at end insert—  
<( ) The Scottish Ministers may by regulations amend the functions of a body, office-holder or other person listed in the schedule insofar as they relate to island communities.>

#### Colin Smyth

- 47 In section 7, page 3, line 30, at end insert—  
<( ) For the avoidance of doubt, the power to add an entry for a person, body or office-holder mentioned in subsection (3) may include adding an entry for any person, body or office-holder paid to deliver a service for a relevant authority.>

### Schedule

#### Colin Smyth

- 48 In the schedule, page 12, line 12, at end insert—  
<The Boundary Commission for Scotland>

**Colin Smyth**

- 49 In the schedule, page 12, line 21, at end insert—  
<The Local Government Boundary Commission for Scotland>

**Colin Smyth**

- 50 In the schedule, page 13, line 11, at end insert—  
<NHS Borders>

**Colin Smyth**

- 51 In the schedule, page 13, line 11, at end insert—  
<NHS Dumfries and Galloway>

**Colin Smyth**

- 52 In the schedule, page 13, line 12, at end insert—  
<NHS Fife>

**Colin Smyth**

- 53 In the schedule, page 13, line 12, at end insert—  
<NHS Forth Valley>

**Colin Smyth**

- 54 In the schedule, page 13, line 12, at end insert—  
<NHS Grampian>

**Colin Smyth**

- 55 In the schedule, page 13, line 12, at end insert—  
<NHS Greater Glasgow and Clyde>

**Colin Smyth**

- 56 In the schedule, page 13, line 14, at end insert—  
<NHS Lanarkshire>

**Colin Smyth**

- 57 In the schedule, page 13, line 14, at end insert—  
<NHS Lothian>

**Colin Smyth**

- 58 In the schedule, page 13, line 17, at end insert—  
<NHS Tayside>

**Colin Smyth**

- 59 In the schedule, page 13, leave out lines 22 to 27 and insert—  
<An integration joint board established under schedule 1 to the Public Bodies (Joint Working) (Integration Joint Board Establishment) (Scotland) Order 2015>

**Section 8**

**John Mason**

- 60 In section 8, page 3, line 32, after <an> insert <islands and>

**Colin Smyth**

- 61 In section 8, page 4, line 1, leave out <, in the authority’s opinion,>

**Peter Chapman**

- 62 In section 8, page 4, line 1, after <have> insert <, or have had,>

**John Mason**

- 63 In section 8, page 4, line 1, after second <an> insert <island or>

**Peter Chapman**

- 64 In section 8, page 4, line 2, after <is> insert <, or was>

**Colin Smyth**

- 65 In section 8, page 4, line 2, leave out <significantly>

**John Mason**

- 66 In section 8, page 4, line 2, after second <other>, insert <islands and>

**John Mason**

- 67 In section 8, page 4, line 6, after <An> insert <islands and>

**John Mason**

- 68 In section 8, page 4, line 11, after <for> insert <islands and>

**Colin Smyth**

- 69 In section 8, page 4, line 11, at end insert—  
<( ) If a relevant authority does not prepare an island communities impact assessment in relation to a—  
(a) policy,  
(b) strategy, or  
(c) service,  
it must publish an explanation of its reasons for not doing so.>

## Peter Chapman

70 In section 8, page 4, line 11, at end insert—

<( ) Where an island communities impact assessment prepared under subsection (1) states that the effect of the policy, strategy or service is likely to be negative and where the authority which has prepared the assessment has not taken steps to improve or mitigate, for the relevant island community, the outcomes resulting from it, that authority must explain to the Scottish Ministers, in writing, its reasons for not taking steps to improve or mitigate those outcomes.>

## After section 8

## Colin Smyth

89 After section 8, insert—

### <Requirement to review decision not to conduct island communities impact assessment

- (1) Any person who is dissatisfied with the decision of a relevant authority not to conduct an island communities impact assessment under section 8(1) may require the authority to review that decision.
- (2) A requirement under subsection (1) is referred to in this section as a “review request”.
- (3) A review request must—
  - (a) be in writing or in another form which, by reason of its having some permanency, is capable of being used for subsequent reference (for example, an audio or video recording),
  - (b) state the name of the person requesting the review and an address for correspondence, and
  - (c) specify—
    - (i) the policy, strategy or service to which the review request relates, and
    - (ii) the reasons for the person’s dissatisfaction mentioned in subsection (1).
- (4) For the purposes of subsection (3)(a) (and without prejudice to the generality of that paragraph), a review request is treated as made in writing where the text of the request is transmitted by electronic means, received in legible form and capable of being used for subsequent reference.
- (5) A review request must be made to the relevant authority no later than 4 weeks after the publication by the relevant authority of its decision not to conduct an island communities impact assessment.
- (6) On receiving a review request, a relevant authority must (unless that request is withdrawn in accordance with subsection (7)) decide on the review and issue its decision under subsection (8) as soon as practicable and in any event within 4 weeks of receipt of the request.
- (7) A review request may be withdrawn by the person who made it, by notice in writing to the authority, at any time before the authority makes its decision on the request.
- (8) The relevant authority may, as respects the decision to which the request relates—
  - (a) confirm the decision complained of, with or without such modifications as it considers appropriate, or

- (b) substitute for any such decision a different decision.>
- (9) A relevant authority—
  - (a) is required to decide on only one review request under subsection (1) in relation to a particular policy, strategy or service, and
  - (b) accordingly, where more than one such request is made—
    - (i) is to comply with subsection (6) only in respect of—
      - (A) the first such request received, or
      - (B) where the first (or a subsequent) request is withdrawn under subsection (7), the first such request not so withdrawn, and
    - (ii) is to inform the person making any subsequent such request in relation to the same policy, strategy or service that it will not proceed to decide on the subsequent request.>

### **Section 9**

#### **John Mason**

- 72** In section 9, page 4, line 14, after <an> insert <islands and>

#### **Jamie Greene**

- 73** In section 9, page 4, line 17, at end insert—
- <( ) For the purposes of this section, the relevant public authority may determine what constitutes compliance.>

### **After section 9**

#### **Tavish Scott**

- 20** After section 9, insert—
- <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) 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.>

#### **Colin Smyth**

- 90** After section 9, insert—
- <Duty to review policies and practices to comply with section 7 duty**
- In exercising its functions, a relevant authority must make such arrangements as it considers appropriate to review and, where necessary, revise any policy, strategy or service (as the case may be) to ensure that, in exercising those functions, it complies with the duty imposed by section 7.>

## Section 10

### Gail Ross

- 21 In section 10, page 4, line 22, at the end insert—  
<( ) each local authority listed in the schedule,>

### Gail Ross

- 22 In section 10, page 4, line 23, after <such> insert <other>

### Tavish Scott

- 23 In section 10, page 4, line 24, 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

### John Mason

- 74 In section 12, page 5, line 3, after <an> insert <islands and>

### John Mason

- 75 In section 12, page 5, line 6, after <other> insert <islands and>

### John Mason

- 76 In section 12, page 5, line 15, after <An> insert <islands and>

### John Mason

- 77 In section 12, page 5, line 18, after <for> insert <islands and>

### Jamie Greene

- 78 In section 12, page 5, line 19, at end insert <, and  
( ) set out the financial implications of steps taken under this subsection to mitigate, for island communities, the outcomes resulting from the legislation.>

### Peter Chapman

- 79 In section 12, page 5, line 19, at end insert—  
<(4) In preparing an islands communities impact assessment, the Scottish Ministers must provide a mechanism for—  
(a) a relevant authority listed in the schedule,  
(b) an island community,  
to appeal a decision made under this section.  
(5) The Scottish Ministers may by regulations make provision as to the procedure to be followed in connection with appeals under subsection (4).>

## After section 12

### Liam McArthur

24 After section 12, insert—

#### <Preparation of retrospective island communities impact assessment by Ministers

- (1) The Scottish Ministers must prepare and publish a retrospective island communities impact assessment in relation to existing legislation and national strategies which have an effect on all island communities which is significantly different from their effect on other communities (including other islands communities) in Scotland.
- (2) 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.
- (3) 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 on island communities.>

### Colin Smyth

80 After section 12, insert—

#### <Duty of the Scottish Ministers to have regard to requests from islands authorities for devolution of functions

- (1) An islands authority may make a request to the Scottish Ministers to promote legislation devolving functions to the authority.
- (2) Subsection (1) applies where the islands authority demonstrates that outcomes for one or more of its island communities would be improved by defined functions being devolved to the authority.
- (3) In making such a request, the islands authority must submit a business case in support of the proposal and must—
  - (a) identify the outcome or outcomes that would be improved by virtue of devolution of functions, and
  - (b) evidence of community support (including the support of island communities) for the promotion of such devolution.
- (4) Following receipt of a request made under subsection (1), the Scottish Ministers must, within three months, confirm in writing—
  - (a) their approval of the request, or
  - (b) their reasons for not approving the request.
- (5) If the Scottish Ministers approve a request under subsection (4)(a), they must bring forward proposals within six months of the date of their decision.

- (6) The Scottish Ministers may issue guidance on—
  - (a) the functions in respect of which a request under subsection (1) may be made,
  - (b) the matters that must be included in the business case referred to in subsection (3),
  - (c) the format such a business case should take.
- (7) Before issuing guidance under subsection (6), the Scottish Ministers must consult—
  - (a) such persons as they consider represent the interests of island communities, and
  - (b) such persons as they consider likely to be affected by the guidance.
- (8) In subsection (5), “bring forward proposals” means to—
  - (a) introduce a Bill for an Act of the Scottish Parliament to achieve the devolution of functions,
  - (b) lay a Scottish statutory instrument or draft instrument before the Parliament to achieve the devolution of functions,
  - (c) take such other steps as are necessary to achieve the devolution of functions.
- (9) Requests made under this section in each reporting year must be included in the report prepared under section 5(1).>

**Colin Smyth**

**81** After section 12, insert—

**<Duty of the Scottish Ministers to have regard to requests from islands authorities in respect of improving or mitigating legislation for island communities**

- (1) An islands authority may make a request to the Scottish Ministers for extant primary or secondary legislation to be amended where—
  - (a) the request relates to a devolved matter as defined by the Scotland Act 1998, and
  - (b) where the islands authority establishes that such legislation has a demonstrably detrimental effect on one or more island communities.
- (2) In making such a request, the islands authority must—
  - (a) identify the legislation to be amended,
  - (b) describe the detrimental effect the current legislation has on one or more island communities,
  - (c) set out why it considers the legislation should be amended,
  - (d) explain how the legislation could be amended to improve or mitigate the effect,
  - (e) specify an outcome that may result from, or be contributed to by virtue of, amending the legislation,
  - (f) provide an explanation of the anticipated improved outcome as a result of amending the legislation, and
  - (g) provide evidence of community support (including the support of island communities) for amending the legislation.
- (3) Following receipt of a request under subsection (1), the Scottish Ministers must confirm in writing within three months of receipt of the request whether or not they support the request.

- (4) Where the Scottish Ministers confirm that they support the request they must, within 6 months of the date of that decision—
  - (a) introduce a Bill for an Act of the Scottish Parliament, or
  - (b) lay a Scottish statutory instrument or draft instrument before the Parliament,
 to amend the legislation that is the subject of the request.
- (5) Where the Scottish Ministers do not support the request they must publish a statement setting out their reasons for their decision.
- (6) Details of requests, and the determination of such requests, made during the reporting year must be included in the report prepared under section 5(1).>

#### **Section 14**

##### **Colin Smyth**

- 82** In section 14, page 6, line 9, after <ward> insert <,or in an islands authority area,>

##### **Humza Yousaf**

- 6** In section 14, page 6, line 9, leave out <mainly> and insert <partly>

#### **After section 15**

##### **Liam McArthur**

- 25** After section 15, insert—

#### **<PART**

##### CONSENT TO CHANGES TO BOUNDARIES, FUNCTIONS OR POWERS OF ISLAND AUTHORITIES

##### **Requirement for consent in relation to changes of boundary, functions or powers**

- (1) The Scottish Ministers must not, unless the condition in subsection (2) is met, bring forward proposals to alter the boundary, functions or powers of any—
  - (a) Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978,
  - (b) local authority,
 whose area consists wholly or partly of one or more inhabited islands.
- (2) The condition is that—
  - (a) in relation to a proposal under subsection (1)(a), each local authority whose area or part of whose area falls within the area of the Health Board,
  - (b) in relation to a proposal under subsection (1)(b), that local authority,
 has given to the Scottish Ministers in writing its consent to the proposals.>

**Tavish Scott**

26 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 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.>

**Section 16**

**Humza Yousaf**

- 7 In section 16, page 7, line 8, leave out from <(whether)> to end of line 9 and insert <, including—
- (i) the removal of any material from the sea or seabed, or
  - (ii) using any device to move any material (whether or not suspended in water) from one part of the sea or seabed to another part.>

**Humza Yousaf**

- 8 In section 16, page 7, line 12, leave out from second <and> to end of line 14

**Humza Yousaf**

- 9 In section 16, page 7, line 22, at end insert—
- <( ) fishing by any other method.>

**Section 18**

**Stewart Stevenson**

- 83 In section 18, page 7, line 40, leave out <includes> and insert <is adjacent to>

## Section 19

**Peter Chapman**

- 84 In section 19, page 10, line 6, leave out from <, before> to <area,>

## After section 20

**Colin Smyth**

- 85 After section 20, insert—

### <PART

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

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

- (1) The Marine (Scotland) Act 2010 is amended as follows.
- (2) In section 12, after subsection (2) insert—

“(2A) Where the Scottish Ministers consider that an islands authority (within the meaning given in section (*Meaning of “islands authority”*) of the Islands (Scotland) Act 2018) sufficiently demonstrates difficulty in fulfilling obligations under subsection (2), they may designate an island authority as a single public authority to carry out their functions in relation to a regional marine plan.”>

## Section 21

**Jamie Greene**

- 86 In section 21, page 10, line 26, leave out <7(3)> and insert <7>

**Tavish Scott**

- 27 In section 21, page 10, line 26, at end insert—

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

## After section 22

**Jamie Greene**

- 87 After section 22 insert—

### <Review of the Act

Not later than the end of the period of one year beginning with the day of Royal Assent, the Scottish Ministers must—

- (a) lay before the Scottish Parliament, and
- (b) publish,

a report on the impact and effectiveness of this Act.>

## Long Title

**John Mason**

- 88 In the long title, page 1, line 2, after the first <to> insert <islands and>



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