

# Islands (Scotland) Bill

## [As Amended at Stage 2]

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## Supplementary Delegated Powers Memorandum

### Introduction

1. This Memorandum has been prepared by the Scottish Government in accordance with Rule 9.7 of the Parliament's Standing Orders, to assist the Delegated Powers and Law Reform Committee in its consideration of the Islands (Scotland) Bill. This Memorandum describes provisions in the Bill conferring powers to make subordinate legislation which were either introduced to the Bill or amended at Stage 2. The Memorandum supplements the Delegated Powers Memorandum on the Bill as introduced.

2. The contents of this Memorandum are entirely the responsibility of the Scottish Government and have not been endorsed by the Scottish Parliament.

### Revised and new delegated powers

#### Part 1 – Key definitions

#### Section 2A – Meaning of “islands authority”

Power conferred on: the Scottish Ministers

Power exercisable by: regulations made by Scottish statutory instrument

Revised or new power: new

Parliamentary procedure: laid, no further procedure

#### Provision

3. Section 2A of the Bill was introduced into the Bill at Stage 2 as amendment 29. It provides a definition of “islands authority” in the list of

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key definitions with a power for the Scottish Ministers to amend that definition. The definition was intended to be used for the purposes of amendments 80 on local empowerment and 81 on the devolution of powers, also considered at Stage 2. While amendment 29 was agreed to, amendments 80 and 81 were not and the term “islands authority” is therefore not used in the Bill as amended at Stage 2. As such the definition of that term serves no legal purpose and the Scottish Government will put forward an amendment to remove section 2A from the Bill as amended at Stage 2.

#### Reason for taking the power

4. The Scottish Government presumes that the reason for taking the power was to allow the list of local authorities in the definition of “islands authority” to be updated, should other local authorities with islands become local authorities with inhabited islands.

#### Choice of procedure

5. No procedure was specified in the amendment.

### Part 3 – Duties in relation to island committees

#### Section 7(3) – Duty to have regard to island communities

Power conferred on:	the Scottish Ministers
Power exercisable by:	regulations made by Scottish statutory instrument
Revised or new power:	revised
Parliamentary procedure:	affirmative procedure

#### Provision

6. Section 7(3) of the Bill as introduced provided that the Scottish Ministers may by regulations amend the schedule which lists the relevant authorities, i.e. the bodies, office-holders and other persons which are to be subject to the duty imposed by section 7(1) to have regard to island communities when exercising their functions. The provision allowed modification by adding or removing an entry for any person, body or office-holder.

7. During its Stage 1 scrutiny, the Delegated Powers and Law Reform Committee recommended that the power be extended to include a power to

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modify an entry in the schedule of the Bill to be consistent with other similar legislation.

### Reason for taking the power

8. In response to the recommendation of the Delegated Powers and Law Reform Committee, section 7(3) was amended to allow regulations to vary the description of an entry in the schedule.

### Choice of procedure

9. The current regulation making powers in section 7(3) are subject to affirmative procedure. Affirmative procedure allows for a more detailed level of Parliamentary scrutiny. It is the view of the Scottish Government that this remains appropriate for the expanded powers in section 7(3).

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