

Islands (Scotland) Bill – Evidence to the Scottish Parliament

Action

1. The deadline for written submissions on the Islands (Scotland) Bill to the Rural Economy and Connectivity Committee is 25 September. The Commission will be giving oral evidence on 27 September. This paper discusses the issues that the Commission may wish to raise and provides a draft written submission to the Committee for consideration.

Background

2. At its meeting on 14 March the Commission had an initial discussion about the proposed islands legislation (LGBCS Paper 2408 refers) which would give statutory protection to na h-Eileanan an Iar constituency; and give the Commission the power to create one- or two-member wards where those wards consist “wholly or mainly” of inhabited islands. At its meeting on 30 May, the Commission gave some further consideration to the issues covered by the legislation (see LGBCS Paper 2415 and associated maps).
3. The Islands (Scotland) Bill was formally introduced in the Scottish Parliament on 12 June (extract at Appendix A).

Discussion

4. The Rural Economy and Connectivity Committee of the Scottish Parliament has been appointed lead committee for consideration of the Bill. At Stage 1, the lead committee’s role is to consider and report to the Parliament on the general principles of the Bill – that is, on the principal purposes of the Bill, rather than the fine detail. It has issued a call for evidence, to be submitted by 25 September. The specific questions it is asking are attached at Appendix B. Of particular interest to the Commission are questions 3 and 4:
 - **3. The Bill proposes to protect the Scottish Parliamentary constituency boundary of Na h-Eileanan an Iar (the Western Isles) from change. Do you agree with this?**
 - **4. The Bill proposes to make an exception to the rules for local government electoral wards to allow areas with inhabited islands to return 1 or 2 members (instead of the usual 3 or 4). What are your views on this proposal?**
5. The Committee has also invited the Commission to give oral evidence at the Committee session on 27 September; this will be attended by the Chair and Secretary.
6. A draft response for submission to the Committee is attached at Appendix C. This sets out agreement to the statutory protection of na h-Eileanan an Iar. It also sets out a number of points relating to the use of 1- or 2- member wards:
 - 6.1. The Commission must continue to have regard to overall effective and convenient local government and must consider the islands as part of the council area as a whole.
 - 6.2. The Schedule 6 rules remain paramount in determining ward design and the Islands Bill does not alter that position.

- 6.3. The powers proposed will give the Commission additional flexibility but this will not necessarily deliver any particular outcome for the islands.
 - 6.4. Many of the inhabited islands have so few electors that any workable minimum threshold would exclude them from forming a whole ward or majority part of a ward.
 - 6.5. Grouping islands together simply to create a single member ward may disregard local ties.
 - 6.6. The effect of the legislation is likely to be different in the 3 council areas that are predominantly mainland from the 3 council areas that are wholly comprised of islands.
 - 6.7. The Commission does not consider electoral outcomes, nor impacts on electoral systems.
 - 6.8. The definition of “wholly or mainly” could usefully be clarified.
 - 6.9. In conducting the reviews the Commission will have regard to the report of the Local Government and Communities Committee into the 5th Reviews of Electoral Arrangements.
7. The Commission met with Scottish Ministers on 13 June and the Bill was discussed during that meeting. The Minister confirmed that he was flexible over the question of overall councillor numbers. There was some discussion over use of one- or two-member wards and the impact on representation under the current STV system and of the likely impact on mainland areas of reviewing the islands. It was also noted that it may be necessary for the Commission to set out a *de minimis* threshold, below which it would not be appropriate to allocate a councillor.
 8. Once the Commission has agreed the written submission the Secretariat will prepare an opening statement for use at the appearance in front of the Committee on 27 September.

Bill timescales

9. It is understood that there has been some revision to planned timescales for the legislation’s passage through the Parliament: the provisional Stage 1 deadline is now February 2018; Stage 2 March/April 2018, Stage 3 May 2018 with Royal Assent expected June/July 2018.
10. The Commission will wish to consider its approach to progressing the review including the point at which it wants to begin engagement with the 6 councils covered by the Bill. The Secretariat will prepare a paper for the next meeting on possible approaches and any initial thoughts at this time would be helpful.

Conclusion

11. The Commission is invited to:
 - Agree the written submission to the Scottish Parliament Rural Economy and Connectivity Committee

- Consider any points it wishes to highlight at the appearance in front of the Committee on 27 September and any supporting briefing required
- Begin its consideration of timing and approach to the Review and what information it would like brought to the next meeting.

Secretariat
September 2017

Extract from Islands Scotland Bill

PART 4

REPRESENTATION OF ISLAND COMMUNITIES *Elections to the Scottish Parliament*

13 Constituency of Na h-Eileanan an Iar

- (1) In schedule 1 of the Scotland Act 1998 (constituencies, regions and regional members)—
- (a) in paragraph 1(2), before paragraph (a) insert—
“(za) the existing constituency of Na h-Eileanan an Iar,”
 - (b) in paragraph 3(1), for “1(2)(a)” substitute “1(2)(za), (a)”, and
 - (c) in paragraph 12, in Rule 2—
 - (i) in paragraph (3), for “71” substitute “70”, and
 - (ii) in paragraph (7), after “areas of” insert “Comhairle nan Eilean Siar,”.
- (2) In the Scottish Parliament (Constituencies and Regions) Order 2014 (S.I. 2014/501)—
- (a) article 2 is to be read as if Na h-Eileanan an Iar were not included in the “deposited data” within the meaning of article 2(2), and
 - (b) in schedule 1—
 - (i) in the introductory words before the table, after “than” insert “Na h-Eileanan an Iar,”, and
 - (ii) in the table, the entry for the constituency of Na h-Eileanan an Iar is revoked.
- (3) In article 42(10) of the Scottish Parliament (Elections etc.) Order 2015 (S.S.I. 2015/425), after “article” insert “the constituency of Na h-Eileanan an Iar,”.

Local government elections

14 Number of councillors in wards with inhabited islands

In section 1 of the Local Government (Scotland) Act 2004 (electoral wards), after subsection (2), insert—
“(2A) But, in relation to an electoral ward consisting wholly or mainly of one or more inhabited islands (within the meaning of section 1(2) of the Islands (Scotland) 10 Act 2018), an order made under section 17 of the 1973 Act may determine that the number of councillors to be returned is either one or two.”.

15 Review of wards in certain local government areas

- (1) As soon as practicable after the commencement of this section, the Local Government Boundary Commission for Scotland (“Boundary Commission”) must—
- (a) review the electoral arrangements for each local government area mentioned in subsection (2), for the purpose of considering future electoral arrangements for those areas, and
 - (b) formulate proposals for those arrangements.
- (2) The local government areas are the areas of—
- (a) Argyll and Bute Council,
 - (b) Comhairle nan Eilean Siar,

- (c) Highland Council,
- (d) North Ayrshire Council,
- (e) Orkney Islands Council,
- (f) Shetland Islands Council.

(3) Part 2 of the 1973 Act applies to a review under subsection (1) as it applies to a review under section 16 of that Act except that section 17 of that Act has effect as if it required the Boundary Commission to submit a report on the review before such date as the Scottish Ministers may direct.

(4) The review under subsection (1) is to be disregarded for the purposes of calculating the intervals between the Boundary Commission reviews of electoral arrangements under section 16(2) of the 1973 Act (duty to review electoral arrangements).

(5) In this section, “1973 Act” means the Local Government (Scotland) Act 1973.

Rural Economy and Connectivity Committee

Call for Views – Island (Scotland) Bill

The Rural Economy and Connectivity Committee invites all interested individuals and organisations to submit written evidence on the Islands (Scotland) Bill and its likely impact. The Committee welcomes views on all of the Bill's proposals. In particular, the Committee would like to hear your views on the following questions:

1. The Bill creates a duty to publish a national islands plan and lay it before the Scottish Parliament. What are your views on this provision?
2. The Bill will require Scottish Ministers and certain Scottish public authorities, to prepare island impact assessments. Do you agree with this provision? How do you think it should work in practice?
3. The Bill proposes to protect the Scottish Parliamentary constituency boundary of Na h-Eileanan an Iar (the Western Isles) from change. Do you agree with this?
4. The Bill proposes to make an exception to the rules for local government electoral wards to allow areas with inhabited islands to return 1 or 2 members (instead of the usual 3 or 4). What are your views on this proposal?
5. The Bill will provide a regulation-making power for the Scottish Ministers to create a marine licensing scheme for coastal waters. Do you agree with this power? Do you have any comments on how it should be used?
6. Does the Bill achieve its aims and are you in favour overall? Is there anything else that you feel should be included or excluded from the Bill?
7. Do you have any comments on the bill in relation to human rights or equalities?

Please feel free to answer all questions or focus your answer on areas of particular interest.