



THE
ISLANDS
SCOTLAND ACT 2018
ACHD
NAN EILEAN
ALBA 2018

Consultation on a National Islands Plan and Island Communities Impact Assessment Guidance
Plana Nàiseanta nan Eilean
Measadh Buidh air Coimhearsnachdan nan Eilean



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Ministerial foreword



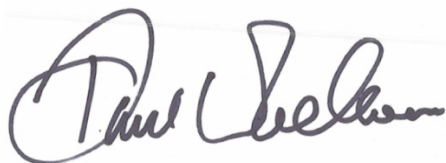
It is my great pleasure to invite you to contribute to this important and historic consultation exercise. Your input and views will help us to shape the content of Scotland's first ever National Islands Plan and Island Communities Impact Assessments.

I am extremely proud to be leading on this work. Our islands are wonderful places to live, study and visit. Each island is highly valued and each contributes to Scotland as a whole in terms of their culture, economic growth, energy supplies and their appeal to international visitors. In addition, the people who live in our island communities are a tremendous asset. Our islanders are talented and full of entrepreneurial spirit. But, I recognise that there are challenges - not least around perceptions of remoteness. That is why we are seeking your ideas to develop and populate the National Islands Plan - to help our island communities to not just survive, but to thrive.

The challenges islands face heighten my admiration for the resilience and spirit of our islanders and I firmly believe that the development of the first National Islands Plan represents a genuine opportunity to shape the future. Our islands have their own unique heritage, landscapes and terrestrial and marine biodiversity and it is the need to maintain and enhance these valued assets that underpins the way forward.

I would like the National Islands Plan to be ambitious, to set out a long-term vision for what our islands can achieve and to make sure that the things that make our islands so special will not only continue to be protected, but flourish.

I very much look forward to hearing your ideas and views and thank you for participating in this important process.

A handwritten signature in dark ink, which appears to read 'Paul Wheelhouse'. The signature is fluid and cursive, with the first name 'Paul' being more prominent than the last name 'Wheelhouse'.

Paul Wheelhouse
Minister for Energy, Connectivity and the Islands

Introduction

1. The Islands (Scotland) Act 2018 was granted Royal Assent last July with the first set of provisions coming into force on 4 October 2018. The Act introduces a number of measures to underpin the Scottish Government's key objective of ensuring that there is a sustained focus across Government and the public sector to meet the needs of island communities now and in the future.
2. Two important provisions within the Act are the development of a National Islands Plan and a duty for certain authorities to have regard to island communities in carrying out their functions. There are specific requirements in respect of the development and delivery of policies, strategies and services as well as the development of legislation. The Act will ensure that the particular needs and circumstances of islands communities are considered by certain authorities.
3. The Act requires that Scottish Ministers must consult with island authorities, people who represent the interests of island communities and those who might be affected by, or have an interest in, the proposals contained in the final National Islands Plan. This is a historic moment for island communities in Scotland. Our Islands have a concrete opportunity to shape their future in a way that aligns with their unique geographical, natural heritage and cultural characteristics.
4. The National Islands Plan will be a document that will include both what works well, and what are the challenges faced by islands and their communities. Moving ahead, the Plan will set out future strategies and objectives that will allow Scottish Ministers and relevant authorities to improve outcomes for island communities. Scottish Ministers will be asked to report back to Scottish Parliament annually on progress towards the goals included in the National Islands Plan. The latter will, hence, shape how Scottish Government and other relevant authorities interact with island and island communities in the future.
5. The rationale behind Island Communities Impact Assessments is that sometimes decisions taken from the mainland can have an impact on island communities. The Islands (Scotland) Act acknowledges that not one size fits all and Island Communities Impact Assessments will be one way in which relevant authorities will be able to consider the impact of their work on islands. Guidance will be developed on how these impact assessments will operate.

6. The consultation laid out in this document will allow island communities to proactively engage and contribute to the development of the National Islands Plan. Furthermore, the consultation will allow island communities to comment on the provision of Island Communities Impact Assessments, which are also at the heart of the Islands (Scotland) Act. We are indebted to you for your contribution to this process.



Background

7. In June 2013, Comhairle nan Eilean Siar, Orkney Islands Council and Shetland Islands Council launched the *Our Islands – Our Future* campaign, with the aim of ensuring that the needs and status of island areas in Scotland were clearly recognised.¹
8. Although this was written in the context of a potentially independent Scotland, the Scottish Government established the Island Areas Ministerial Working Group, to focus on three key areas:

¹ Our Islands Our Future (n.d) Constitutional change in Scotland – Opportunities for island areas. http://www.orkney.gov.uk/Files/Council/Consultations/Our-Islands-Our-Future/Joint_Position_Statement.pdf

- How the Islands councils are and can be supported to use existing powers available to them and engage communities to deliver improved, more responsive public services and better outcomes for communities;
 - Consider the development and extension of local democracy in the island groups and opportunities in the context of the 2014 Scottish independence referendum, including the issues raised by the *Our Islands - Our Future* joint position statement; and
 - Agree a prospectus outlining opportunities for island communities in the future.
9. In June 2014, on conclusion of the Island Areas Ministerial Working Group's work, the Scottish Government published the *Empowering Scotland's Island Communities* prospectus,² presented as a coherent package of measures that developed a set of proposals based on three underpinning objectives:
- Promoting the voice of island communities;
 - harnessing island resources; and
 - enhancing the wellbeing of island communities.
10. Following the *Empowering Scotland's Island Communities* prospectus, the Scottish Government consulted on provisions for a future Islands Bill. A key focus of this consultation was the aspect of 'island-proofing', consulting on its inclusion as a principle within any future Island Bills to formalise the approach in legislation.
11. The Islands (Scotland) Bill 2018 received Royal Assent on 6 July 2018. The first Commencement Regulations for the Island Act were laid on 20 September 2018 and came into force on 4 October 2018.



² Scottish Government (2014) *Empowering Scotland's Island Communities*.
<https://www.gov.scot/publications/empowering-scotlands-island-communities/pages/3/>

The Islands (Scotland) Act 2018

The Islands Act contains 32 sections, arranged into 6 Parts, as follows:

12. Part 1 – Key definitions: This Part sets out the definition of an island, an inhabited island, and an island community. An island includes all naturally formed areas enclosed by the sea - ignoring the addition of man-made structures such as bridges, which means that the Isle of Skye is included. An inhabited island is defined as being permanently inhabited by at least one individual, whilst island community is interpreted broadly to include communities of common interest whether resident on a single island; or spanning a group of islands. Within these parameters, even two people can constitute an island community.
13. Part 2 – National Islands Plan: This places a duty on Scottish Ministers to prepare, lay before the Scottish Parliament and publish a 'National Islands Plan', which will set out the main objectives and strategy of the Scottish Government in relation to how relevant authorities might help to improve outcomes for island communities. The first draft of the Plan must come before Scottish Parliament within 12 months of Part 2 of the Act coming into force. Ministers will report on the Plan annually to monitor progress and to consider where outcomes may or may not have improved.
14. Part 3 – Duties in relation to island communities: These provisions require relevant authorities, including the majority of public bodies including the Scottish Ministers, to have regard to island communities in carrying out their functions. To comply with this duty, relevant authorities must make arrangements to review their policies, strategies and services and either prepare an Island Communities Impact Assessment where that is required (see below), or otherwise assess or take appropriate steps in relation to the policy, strategy or service in question. There is a power for Ministers to issue guidance in relation to the duty. An Island Communities Impact Assessment is required where a policy, strategy or service is considered likely to have a significantly different impact on island communities. A similar duty is imposed on the Scottish Ministers in relation to legislation, which, in their view is likely to have an effect on an island community which is significantly different from its effect on other communities in Scotland
15. Part 4 – Representation of island communities: This Part provides for the protection of the Scottish parliamentary constituency boundary of Na h-Eileanan an Iar from variation (thus placing it on the same basis as Orkney and Shetland). It also, allows an exception to be made, in respect of areas with inhabited islands, to the usual three or four member ward rule for local government electoral wards and allows areas with inhabited islands to return one or two members instead of three or four. This is an effort to increase flexibility and subsequently reduce the likelihood of island communities being part of a ward which also includes part of the mainland, and therefore being represented by a councillor who is not resident on an island.

16. Part 5 (and section 15) – Additional Powers Requests: These provisions require the Scottish Ministers to establish a scheme to allow local authorities to request that additional devolved functions, duties or responsibilities be transferred to them. The Act requires that a draft of the regulations establishing the scheme must be laid before the Scottish Parliament before 6 July 2019.
17. Part 6 – Development in the Scottish island marine area: This provision allows the Scottish Ministers to establish a scheme to licence development adjacent to or within 12 nautical miles of an island, in respect of designated island licensing areas. Areas may be designated only on application by a local authority. This broadly reflects the powers to licence development works in inshore areas currently available in Orkney and Shetland through private Acts of Parliament. If the licence is granted, the person will have to carry out the activity in compliance with the terms set by the respective local authority.



National Islands Plan

18. According to the Islands (Scotland) Act 2018, the purpose of the Plan is “to set out the main objectives and strategy of the Scottish Ministers in relation to improving outcomes for island communities that result from, or are contributed to by, the carrying out of functions of a public nature”.³
19. Section 3(3) of the Act provides a number of areas for improving outcomes for island communities, including:
- a) increasing population levels;
 - b) improving and promoting: sustainable economic development;
(ii) environmental wellbeing; (iii) health and wellbeing, and
(iv) community empowerment;
 - c) improving transport services;
 - d) improving digital connectivity;
 - e) reducing fuel poverty;

³ Islands (Scotland) Act 2018, section 3(2) <http://www.legislation.gov.uk/asp/2018/12/enacted>

- f) ensuring effective management of the Scottish Crown Estate (that is, the property, rights and interests to which section 90B(5) of the Scotland Act 1998 applies); and
- g) enhancing biosecurity (including protecting islands from the impact of invasive non-native species).⁴

20. However, it is crucial to note that this is not an exhaustive list. The National Islands Plan is not limited by Section 3(3), but rather will develop organically from the data gathered during the consultation process. Consequently, the National Islands Plan will include objectives and strategies related to those sectors linked to the carrying out of functions of a public nature, that will improve outcomes for island communities, even outcomes not included in section 3(3).

21. The first draft of the National Islands Plan must come before Scottish Parliament within 12 months of Part 2 of the Act coming into force, which in this instance means a draft of the Plan must be submitted by 4 October 2019.⁵

22. In so far as possible, the National Islands Plan will include means to measure whether the outcomes identified have improved for island communities.⁶ This may well require the use of indicators, which will assess the degree of success in progress towards the objectives set out in the National Islands Plan.

23. In this respect, the Scottish Ministers will report on the Plan annually to monitor its progress and to consider where outcomes may or may not have improved.⁷ In addition, the Scottish Ministers will also review the National Islands Plan before the end of the period of 5 years beginning with the day on which the plan was last published.



⁴ Islands (Scotland) Act 2018, section 3(3) <http://www.legislation.gov.uk/asp/2018/12/enacted>

⁵ Islands (Scotland) Act 2018, section 4(2) <http://www.legislation.gov.uk/asp/2018/12/enacted>

⁶ Islands (Scotland) Act 2018 <http://www.legislation.gov.uk/asp/2018/12/enacted>

⁷ Island (Scotland) Act 2018, section 5(1).

24. Essentially, the National Islands Plan is an opportunity for island communities to highlight the issues they are currently facing. By participating in the consultation, island communities have the possibility to ensure that these concerns are directly reflected in the National Islands Plan.
25. The National Islands Plan should also be a space to celebrate islands and island communities as successful places and thriving environments. Through this consultation we want to capture your success stories; positioning them at the forefront of the National Islands Plan so that good practices can be shared amongst island communities not only in Scotland, but globally.
26. Overall, our vision is that the National Islands Plan will set out a number of objectives across all policy areas to support, promote and empower our island communities. Implementation of the National Islands Plan will improve the quality of life of island communities by fully taking into account the unique context of each island and by developing a system of reporting and review that will promote accountability.
27. The Islands (Scotland) Act clarifies that “[I]n preparing the national islands plan, the Scottish Ministers *must consult* each local authority listed in the schedule, such other persons as they consider represent the interests of island communities, and such persons (including members of island communities and other persons) as they consider likely to be affected by or have an interest in the proposals contained in the plan”.⁸
28. Accordingly, Scottish Government has decided to undertake a wide consultation with island communities. However, this is not simply a procedural requirement, but an essential means to properly develop the National Islands Plan in a way that truly responds “to the distinctive geographical, natural heritage and cultural characteristics (including the linguistic heritage) of each of the areas inhabited by island communities.”⁹
29. Developing a plan which responds to “linguistic heritage” will include asking island communities how the Plan should take into account the needs of Gaelic speakers in island communities, and how this will interact with any commitments made by authorities in any Gaelic language plan they have produced under the Gaelic Language (Scotland) Act 2005.

⁸ Islands (Scotland) Act, section 4(1)(a). Emphasis added:

<http://www.legislation.gov.uk/asp/2018/12/enacted>

⁹ Islands (Scotland) Act 2018, section 4(1)(b): <http://www.legislation.gov.uk/asp/2018/12/enacted>



Island Communities Impact Assessments

30. While the aim of the National Islands Plan is to shape government policy in a way that will improve outcomes for island communities, Island Communities Impact Assessments serve a more immediate role. By undertaking an Island Communities Impact Assessment, Scottish Government, local authorities and relevant authorities will “island proof” legislation, policy, strategies and services where those are considered likely to have an effect on an island community which is significantly different from its effect on other communities. In those cases, Island Communities Impact Assessments will ensure that the obligation according to which “[A] relevant authority must have regard to island communities in carrying out its functions”¹⁰ is met.¹¹ And, it will be through Island Communities Impact Assessments that the interests of island communities are formally taken into account when decisions are made.

31. The Islands (Scotland) Act clarifies that an Island Communities Impact Assessment will be carried out by a relevant authority¹² when a policy, strategy or service “is likely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities) in the area in which the authority exercises its functions.”¹³

32. Guidance on how an Island Communities Impact Assessment should be carried out is not present in the Islands (Scotland) Act. Rather, the Act enables Ministers to develop guidance about the duty to have regard to island communities, of which the Island Communities Impact Assessment forms part.¹⁴ The Scottish

¹⁰ Islands (Scotland) Act 2018, section 7(1).

¹¹ Islands (Scotland) Act 2018, section 10.

¹² Clarify what a relevant authority is in the Act.

¹³ Islands (Scotland) Act 2018, section 8(1). Similar language is used in relation to island communities impact assessments carried out by Scottish Ministers in relation to legislation, see section 13(1).

¹⁴ Islands (Scotland) Act 2018, section 11.

Ministers are also required to develop regulations “about reviews of decisions of relevant authorities relating to island communities impact assessments.”¹⁵

33. The consultation laid out in this document refers to both tasks. The Act requires Ministers to consult with local authorities, as well as representatives of island communities and others before issuing guidance about this duty, and in preparation of the National Islands Plan. The Scottish Government is eager to engage with island communities and as wide a range of interests as possible in the preparation of both the guidance and the Plan. The Scottish Government believes that island communities need to have an opportunity to share their views on the National Islands Plan and on the development of Island Communities Impact Assessments. This consultation gives them this opportunity.



¹⁵ Islands (Scotland) Act 2018, section 9(1)

Consultation

34. The Scottish Government firmly believes that the National Islands Plan and the approach to carrying out Island Communities Impact Assessments should be informed by the views of island communities and other people with an interest in islands, to the greatest extent possible. In order to do so, a twofold consultation process has been devised.
35. Firstly, a traditional on-line survey will be available through the Citizen Space portal. Details about this part of the consultation and how the results will be processed can be found later in this consultation document.
36. Secondly, the on-line results will be combined with more qualitative data gathered through a series of events that will be carried out by Scottish Government throughout islands in Scotland. The events will be organised in collaboration with local island organisations and promoted widely so that a broad spectrum of the island community can attend and participate. Members of the island community who attend and contribute to the events can also contribute to the more detailed on-line survey and will be actively encouraged to do so – but you don't need to attend an event to complete the survey.
37. The consultation process will be led by Scottish Government in collaboration with the Strathclyde Centre for Environmental Law and Governance and with support from the Scottish Islands Federation.



Consultation questions

We want the National Islands Plan to be a document that builds on what works well on Scottish islands, and which addresses the challenges faced by islands and their communities. The Plan will set out how the Scottish Government, local authorities and other public agencies might work to improve outcomes for island communities. Scottish Ministers will be asked to report back to Scottish Parliament every year on progress towards the goals included in the National Islands Plan.

The Plan, therefore, is key to how we will all work together with island communities in the future. It is therefore vital that as many people as possible who live, work and interact with Scotland's islands and their communities take part in this consultation. We want to hear people's experiences and especially, their views about what we can build on and do differently in the future. The questions set out below aim to give people the chance to shape the National Islands Plan in a way that truly responds to their interests and aspirations. Please take part.

Q1. If applicable, which island(s) do you live on or do you relate to?

Comment

National Islands Plan

Q2. If applicable, what is good about living on your island? Please state 3 things that you like about living on your island.

Comment

Q3 If you've moved away from your island, please tell us why you left (for example, was it for work opportunities or for education)?

Comment

Q4. If you've moved away from your island, please tell us what, if anything you miss about island life.

Comment

Q5. If possible, please can you give us some examples of good local initiatives/projects/activities, etc?

Comment

Q6. The Islands (Scotland) Act lists a number of areas that are relevant for islands and island communities. Please rank these in order of priority for you:

- Depopulation ☐
- economic development ☐
- environmental protection ☐
- health and wellbeing ☐
- community empowerment ☐
- transport ☐
- digital connectivity ☐
- fuel poverty ☐
- land management ☐
- biosecurity ☐

Do you feel that this list covers all aspects of island life?

☐ Yes ☐ No ☐ Don't know

Q7. If you answered no, is there anything else that you believe the National Islands Plan should address?

Comment

Q8. If applicable, are there any specific challenges about living on your island?
Please state 3 challenges about living on your island.

Comment

Q9. If you've moved away, please tell us about any challenges that you experienced whilst you were living on your island.

Comment

Q10. If applicable, what could be done to make living on your island better?

Comment

Q11. How do you feel the National Islands Plan should address and respond to the distinctive geographical, natural heritage and cultural characteristics (including the linguistic heritage) of local island communities, including the needs of Gaelic speakers within those communities?

Comment

National Islands Plan: General Questions Section:

So as many people and agencies as possible have an opportunity to help us shape the National Islands Plan, we would like to capture the views of relevant authorities, national, local and community groups, development trusts and other such partners with an interest in islands,

Q12. What should be the main objectives for the National Islands Plan?

Comment

Q13. What should be the key priorities for the Scottish Government in relation to the National Islands Plan?

Comment

Q14. What should be taken into account in terms of the functions of relevant authorities within the National Islands Plan?

Comment

Q15. How can we measure outcomes in relation to the National Islands Plan?

Comment

Q16. If you have any further comments or points that you think should be taken into account in the development of the National Islands Plan, please state these below.

Comment

Island Communities Impact Assessment

Island Communities Impact Assessments will be one way in which relevant authorities can consider the impact of new laws, policies, strategies or services on islands. Guidance will be developed on how these impact assessments will operate and we believe that your input to this consultation can help us with this:

Q17. Can you name any policies, strategies or services that don't work very well for your island? Why do you feel they don't work well?

Comment

Q18. On the other hand, can you name any policies, strategies or services that **DO** work well for your island? Please tell us what it is about these that works so well.

Comment

Q19. How can Scottish Ministers and other relevant authorities involve island communities in assessments?

- | | |
|------------------------|--------------------------|
| online surveys | <input type="checkbox"/> |
| focus groups | <input type="checkbox"/> |
| public meetings | <input type="checkbox"/> |
| paper documents | <input type="checkbox"/> |
| other (please comment) | <input type="checkbox"/> |

Comment

Q20. Is there anything else you would like to tell us?

Comment

Island Communities Impact Assessments – General Questions Section:

Guidance on how an Island Communities Impact Assessment should be carried out is not present in the Islands (Scotland) Act. Rather, the Act enables Ministers to develop guidance about the duty to have regard to island communities, of which the Island Communities Impact Assessment forms part.¹⁶ The Scottish Ministers are also required to develop regulations “about reviews of decisions of relevant authorities relating to island communities impact assessments”.

So as many people and agencies as possible have an opportunity to help us shape guidance and templates for Island Communities Impact Assessments, we would like to capture the views of relevant authorities, national, local and community groups, development trusts and other such partners with an interest in islands.

Q21. What should be the main objectives for Island Communities Impact Assessments?

Comment

Q22. What do you think needs to be considered in the guidance and templates which will be developed to support the carrying out of Island Communities Impact Assessments by relevant authorities?

Comment

¹⁶ Islands (Scotland) Act 2018, section 11.

Q23. What should be taken into account in relation to the reviews of decisions of relevant authorities relating to Island Communities Impact Assessments?

Comment

Q24. If you have any further comments or points that you think should be taken into account in the development of Island Communities Impact Assessments, please state these below.

Comment

About you

What is your name?

What is your email address?

Entering your email address allows you to return to edit your consultation at any time until you submit it. You will also receive an acknowledgement email when you complete the consultation.

Are you responding as an individual or an organisation?

☐ Individual ☐ Organisation

What is your organisation?

If responding on behalf of an organisation, please enter the organisation's name here.

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

(Required)

- ☐ Publish response with name
- ☐ Publish response only (without name)
- ☐ Do not publish response

Info for organisations:

The option 'Publish response only (without name)' refers only to your name, not your organisation's name. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

(Required)

☐ Yes

☐ No

Responding to this consultation

38. Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space, at: <https://consult.gov.scot/agriculture-and-rural-communities/national-islands-plan> You can save and return to your responses while the consultation is still open.
39. If you are unable to respond online using Citizen Space, please submit your response by email or post; including the Respondent Information Form (Annex A), and your consultation response (Annex B). Please send your completed consultation response and your Respondent Information Form to our dedicated mailbox: info@islandsteam.scot Alternatively you can post your response to: The Islands Team, Consultation, Scottish Government, Scottish Government Agriculture and Rural Economy, Government Buildings, Tankerness Lane, Kirkwall, KW15 1AQ. Please ensure that consultation responses are submitted before the closing date (06 July 2019).

Scottish Government consultation process

40. Consultation is an essential part of the policy making process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work. You can find all our consultations online: <http://consult.gov.scot>.
41. Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:
- indicate the need for policy development or review
 - inform the development of a particular policy
 - help decisions to be made between alternative policy proposals
 - be used to finalise legislation before it is implemented.
42. While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Handling your response

43. If you respond using the consultation hub, you will be directed to the “About You” page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.
44. All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise. To find out how we handle your personal data, please see our privacy policy:
<https://beta.gov.scot/privacy/>

Next steps in the process

45. Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory or offensive materials, or where publication would be contrary to copyright or data protection laws, we will make responses available to the public at
<http://consult.scotland.gov.uk>.
46. If you use Citizen Space to respond, you will receive a copy of your response by email. Following the closing date, all responses will be analysed and considered along with any other available evidence to help us, and an analysis report will be made available.



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