

Island Communities Impact Assessment (ICIA):

**The Disability Assistance for
Children and Young People
and Scottish Child Payment
(Suspensions) Amendment
(Scotland) Regulations 2021**

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Introduction

1. The importance of island-proofing was recognised in the "Empowering Scotland's Island Communities prospectus" published in June 2014. The principle of island-proofing is one of building a broad-based islands awareness into the decision making process of all parts of the public sector.
2. The Islands (Scotland) Act 2018¹ places a duty on the Scottish Ministers and other relevant authorities, including a number of public authorities, to have regard to island communities in exercising their functions, and for the Scottish Ministers this will also include the development of legislation. This duty is often referred to as 'island-proofing'.
3. The Scottish Government recognises the importance of island-proofing and committed to island-proofing regulations made under the Social Security (Scotland) Act 2018² (the 2018 Act). The Scottish Government is also committed to island-proofing the legislation required in support of the devolution of social security powers to Scotland.
4. If the Scottish Ministers are of the opinion that any piece of proposed legislation is likely to have an effect on an island community which is significantly different from its effect on other communities, then the duty to island-proof legislation requires the Scottish Ministers to:
 - describe the likely significantly different effect of the legislation;
 - assess the extent to which the Scottish Ministers consider that the legislation can be developed in such a manner as to improve or mitigate, for island communities, the outcomes resulting from the legislation; and
 - set out the financial implications of steps taken under this subsection to mitigate, for island communities, the outcomes resulting from the legislation.

Executive Summary

5. This ICIA has considered the potential effects of the Disability Assistance for Children and Young People and Scottish Child Payment (Suspensions) Amendment (Scotland) Regulations 2021 and how they impact on people living in island communities, presented below in the **Key Findings** section. The findings here are based on desk research, engagement with and feedback from people with lived experience of the current social security system.
6. We are extending the ICIA by considering rurality and remoteness in the same spirit of the Act to gauge evidence as to whether the policy and regulations will impact rural/remote communities differently to other communities.

¹ <https://www.legislation.gov.uk/asp/2018/12/enacted>

² <https://www.legislation.gov.uk/asp/2018/9/contents>

7. We have concluded that there will not be any new unique impacts on remote and islands communities as a result of the provisions in these Regulations, nor will there be a specific financial impact for island communities in isolation resulting from the provisions.

Policy Background

8. The draft Regulations provide a framework for how Scottish Ministers will exercise the power to suspend awards of ongoing assistance under the Social Security (Scotland) Act 2018 in order to:
 - ensure that vulnerable individuals are protected from the risks of economic and financial abuse, either by an appointee or by someone who is able to coercively control the individual's finances;
 - ensure that an individual's entitlement to assistance does not prematurely come to an end because a person appointed to act on their behalf is unwilling or unsuitable to continue to act on their behalf;
 - mitigate the potential risks of an individual's entitlement to assistance terminating as a result of a failure to provide information to Social Security Scotland, by providing an opportunity to engage; and
 - protect individuals against the risk of overpayment if their circumstances have changed, but they have failed to engage with Social Security Scotland as part of a review of their entitlement.
9. Under the 2018 Act (as originally enacted), there was no mechanism to allow for the temporary suspension of payments of on-going assistance whilst the individual remained entitled to the assistance in question – an individual was simply entitled to be paid, or they were not.
10. During the passage of the Social Security Administration and Tribunal Membership (Scotland) Bill³, several stakeholders (including CAS, CPAG and the Alliance) indicated that implementing social security without any powers to suspend assistance may have a negative impact on individual clients, potentially requiring them to repay overpaid assistance, as well as putting them at risk of financial abuse.
11. The ability to suspend assistance was introduced at Stage 2 of the passing of the Social Security Administration and Tribunal Membership (Scotland) Bill 2020 which amended the 2018 Act. Section 12 of the 2020 Act does this by:
 - adding a power to make regulations on when an individual's ongoing entitlement to assistance can be suspended;
 - adding Schedule 11 which makes provision about the exercise of the power to make regulations on suspension of assistance; and
 - providing that Scottish Ministers can suspend assistance in accordance with these regulations if an individual does not provide information on request.
12. The Scottish Government has been clear that the use of the power to suspend should not be punitive – it should be used to protect clients from the risk of overpayments, from financial abuse, and to give clients the opportunity to re-

³ <https://www.parliament.scot/bills-and-laws/bills/social-security-administration-and-tribunal-membership-scotland-bill>

engage with Social Security Scotland if they fail to provide information where requested.

13. It should be acknowledged that the ability to suspend assistance interferes in an individuals' right to that assistance. Being able to suspend in broad circumstances would not be showing due regard to the needs mentioned in the public sector equality duty. However, we believe that utilising suspensions in the manner expressed in the regulations provides for use in limited circumstances and contains adequate safeguards which will allow suspensions to be used in such a way as to be beneficial to clients, including clients with protected characteristics.

Scope of the ICIA

14. The scope of this ICIA is the impact on people living in remote and island communities as a result of introducing powers to suspend assistance in the following circumstances:

- the Scottish Ministers have made arrangements for a person to receive the assistance on the individual's behalf, and the Scottish Ministers consider that it is necessary to suspend the assistance-
 - because the person with whom the Scottish Ministers have made arrangements is unable to continue to receive the assistance,
 - in order to protect the individual from the risk of financial abuse,
- the individual has requested that the Scottish Ministers temporarily stop giving the assistance in question and is yet to request that they resume doing so, or
- under section 54(1A) of the 2018 Act, the Scottish Ministers have issued a decision to suspend assistance to the individual due to a failure to provide information which the individual is yet to provide.

Key Findings

15. This section provides an overview of issues for Scottish rural/remote and island communities that are relevant for these regulations.

16. Island stakeholders have emphasised the importance of understanding the island experience. Each island has its own specific considerations and constraints.

17. Rural Scotland accounts for 98% of the land mass of Scotland and 17% of the population are resident there.⁴

18. At the time of the 2011 Census, Scotland had 93 inhabited islands with a total population of 103,700 (which was 2% of Scotland's population).⁵ Of these islands, only 5 are connected to the Scottish mainland by bridge or causeway.

19. The Islands Act identifies 6 local authorities representing island communities in Part 4 of the Act (Section 20 (2), which are Argyll and Bute Council; Comhairle nan Eilean Siar/Western Isles; Highland Council; North Ayrshire Council; Orkney Islands Council; and Shetland Islands Council. Amongst them, Orkney, Shetland

⁴ Scottish Government (2018) [Rural Scotland: key facts 2018](#)

⁵ NRS (2015) [Scotland's Census 2011: Inhabited islands report](#)

and Western Isles are entirely island authorities, while Highland, Argyll and Bute and North Ayrshire local authorities cover island regions as well as mainland regions.

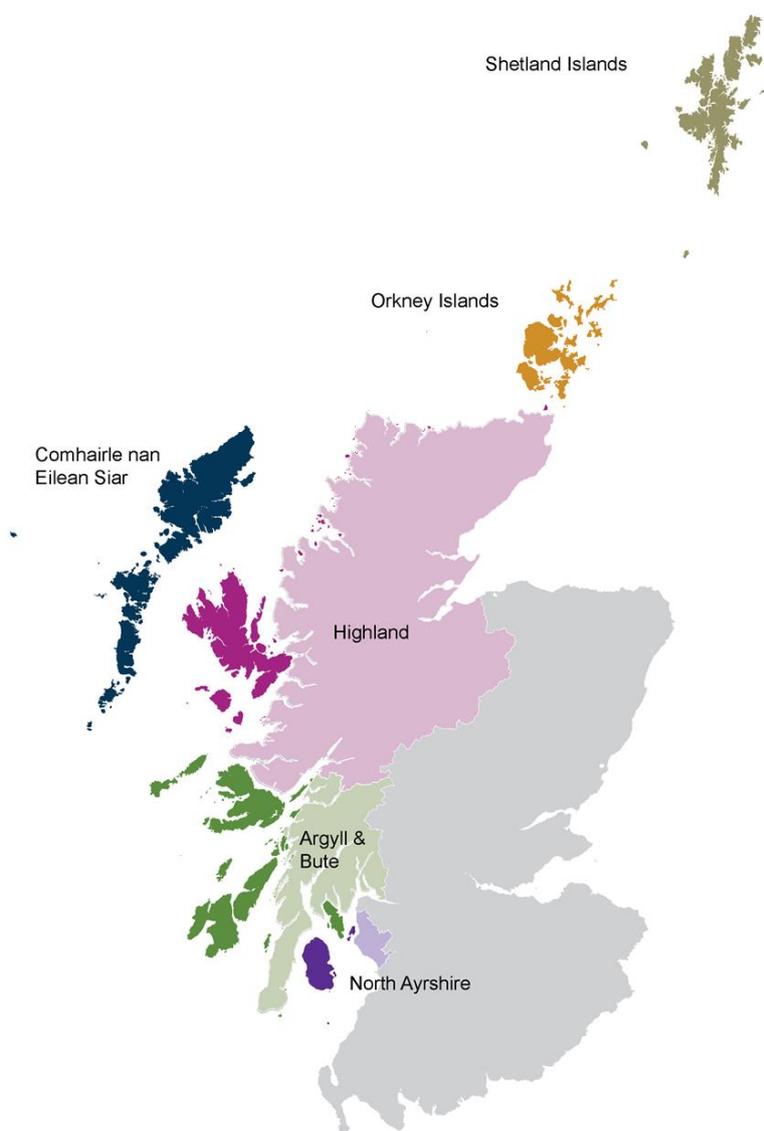


Figure 1: Map highlighting all 6 local authorities representing Island Communities (islands in darker shades where islands are part of mainland Local Authorities)⁶

Grounds for suspension

20. Under the Social Security (Scotland) Act 2018 (as originally enacted), there was no mechanism to allow for the temporary suspension of payments of on-going assistance whilst the individual remained entitled to the assistance in question – an individual was simply entitled to be paid, or they were not.

21. During the passage of the Social Security Administration and Tribunal Membership (Scotland) Bill⁷, several stakeholders (including CAS, CPAG and the

⁶ <https://digitalpublications.parliament.scot/ResearchBriefings/Report/2017/9/4/Islands--Scotland--Bill-1>

⁷ <https://www.parliament.scot/bills-and-laws/bills/social-security-administration-and-tribunal-membership-scotland-bill>

Alliance) indicated that implementing social security without any powers to suspend assistance may have a negative impact on individual clients, potentially requiring them to repay overpaid assistance, as well as putting them at risk of financial abuse.

22. The Scottish Ministers are not aware of any evidence to suggest that the positive effects of these provisions (as set out above) will be felt any differently by island or mainland-rural communities compared to its effect on other communities in Scotland.

Safeguards

The draft regulations also contain the following safeguards:

- a right to require the Scottish Ministers to review the decision to suspend;
- a duty on the Scottish Ministers to have regard to an individual's financial circumstances before deciding to suspend assistance and when reviewing a decision to suspend assistance;
- provision on when suspension must end; and
- the right to be notified about:
 - a decision to suspend;
 - the reasons for the decision;
 - any steps that the individual might take in order for the Scottish Ministers to consider ending the suspension; and
 - the right to request a review of the decision.

23. These provisions are similarly expected to have a positive impact on clients in all communities in Scotland, and it is not considered that these provisions will impact individuals living in island and rural-mainland communities any differently.

Implementation

24. A communications strategy and comprehensive guidance are being developed in advance of implementing the powers to suspend assistance under the Social Security (Scotland) Act 2018. This will ensure that clients and (where appropriate) their appointees understand what will happen when a payment is suspended, how they can seek a review, tell us about any risk of hardship, and have a decision to suspend lifted.

25. We recognise that awareness of social security rights can sometimes be limited and this is especially relevant in rural communities. We intend to provide clear information to all clients, including where we are making a first attempt at seeking supporting information from a client. Social Security Scotland's Local Delivery function will provide support to applicants in rural areas. This will be an improvement on the current level of support offered through the current DWP system.

26. We intend to provide transparent information about how considerations of hardship will work for clients, so that they are able to tell us clearly about the impact that the suspension of assistance might have on them. We will also have

clear and comprehensive guidance for Social Security Scotland case managers to use in deciding whether a suspension is likely to plan an individual in hardship.

Monitoring and review

27. Monitoring the impact of the power to suspend assistance in island and remote rural communities will be a continuous process and where any unintended consequences are identified, steps will be taken to improve the service. The Scottish Government will put in place a monitoring and evaluation plan for the power to suspend prior to implementation which takes account of the issues identified within this impact assessment.
28. On-going stakeholder engagement with key organisations – such as the Child Poverty Action Group, Rights Advice Scotland, Young Scot, DACBEAG, and our Ill Health and Disability Benefit Stakeholder Reference Group – will provide the Scottish Government with an opportunity to monitor the impact of the changes made by these regulations.
29. The Communities Analysis Division within the Scottish Government will also run a comprehensive evaluation programme to consider the impact of the changes made by these regulations, with a full suite of equalities data for new applicants.
30. The Scottish Ministers have also committed to engaging with, and reporting regular progress to, the Islands Strategic Group to ensure that those representing the interests of island communities and others with experience of the current system, are fairly represented in the development and delivery of the Scottish social security system.
31. The 2018 Act places a duty on the Scottish Ministers to publish an annual report on the performance of the Scottish social security system. On-going engagement with key stakeholders will also provide the Scottish Government with an opportunity to monitor the impact of the policy.
32. Audit Scotland will monitor and report on the delivery of the social security system, including Social Security Scotland.

Summary and Conclusion

33. The Scottish Government does not consider that the provisions within the regulations will negatively impact upon those in island and mainland-rural communities. The number of provisions in the regulations are identified as having a positive, but not significantly different, impact for individuals in island and rural communities compared to individuals in other communities.
34. The Scottish Government is committed to designing the devolved social security system with people in Scotland, and on-going engagement with people, external stakeholders and advisory groups will ensure that the impact of the regulations remain under continuous review.

35. The Scottish Government has concluded that no further changes to the policy are necessary as a result of the ICIA.

Authorisation

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