

Coronavirus (Recovery and Reform) (Scotland) Bill

Islands Communities Impact Assessment

January 2022



**Scottish Government
Riaghaltas na h-Alba
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Islands Communities Impact Assessment Template

Name of Policy, Strategy or Service	Coronavirus (Recovery and Reform) (Scotland) Bill
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Step one – develop a clear understanding of your objectives

<ul style="list-style-type: none">• What are the objectives of the policy, strategy or service?	<p>Further information about the background and the policy intention behind the Bill and also about the existing temporary Covid legislation is set out in the Policy Memorandum which accompanies the Bill. The Bill, Policy Memorandum and other accompanying documents are available from the Scottish Parliament website and are linked to from this Bill webpage.</p> <p>The sections of this ICIA are structured in the same way as the Policy Memorandum, which broadly follows the structure of the Bill. Where certain provisions have not been mentioned in this ICIA, this is because the Scottish Government has concluded that these provisions would have no differential impact on island communities.</p> <p><u>Public Health Protection</u> Modifications of the Public Health etc. (Scotland) Act 2008 Arrangements for vaccination and immunisation</p> <p><u>Education</u> Educational establishments etc. School consultations</p> <p><u>Public Service Reform</u> Online meetings and hearings Bankruptcy: remote meetings of creditors Civic licensing: how hearings may be held Alcohol licensing: how hearings may be held Requirements of writing: Disapplication of physical presence requirements</p>
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	<p>Custody at police stations: Custody officers' functions</p> <p>Communicating by phone or online</p> <p>Bankruptcy: service of documents</p> <p>Registration of births</p> <p>Registration of deaths</p> <p>Civic licensing: how notices may be published</p> <p>Land registration</p> <p>Freedom of information: giving notice electronically</p> <p>Care services: giving of notices by SCSWIS</p> <p>Miscellaneous</p> <p>Bankruptcy: meaning of "qualified creditor" and "qualified creditors"</p> <p>Legal aid and advice: Claim for interim payment of fees and outlays</p> <p>Mental health: removal of need for witnessing of signature of nominated person</p> <p>Parole Board for Scotland</p> <p>Tenancies</p> <p>Removal of mandatory eviction grounds</p> <p>Pre-action protocol in respect of evictions relating to rent arrears</p> <p>Temporary Justice Measures</p> <p>Courts and tribunals: conduct of business by electronic means etc. (Documents)</p> <p>Courts and tribunals: conduct of business by electronic means etc. (Attending a court or tribunal)</p> <p>Fiscal fines</p> <p>Failure to appear before court following police liberation</p> <p>National jurisdiction for callings from custody etc.</p> <p>Criminal procedure time limits</p> <p>Proceeds of crime</p>
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<ul style="list-style-type: none"> • What are the intended impacts / outcomes and how do these potentially differ in the islands? 	<p>Generally, the modernisations in the Bill described in the Policy Memorandum are intended to benefit all communities across Scotland. In some cases there are anticipated to be particular benefits for island communities.</p> <p>Public Health Protection</p> <p>As the <u>Modifications of the Public Health Etc. (Scotland) Act 2008</u> provisions in this Bill are enabling powers, these provisions alone do not have an immediate effect on an island community which is significantly different from the effect on other communities, because these powers will only have an effect overall once exercised: any such effect would come at the point of regulations being made under the powers contained in the Bill.</p> <p>However, the Scottish Government is cognisant of the fact that an infectious disease or contaminant which poses a significant risk to public health may not necessarily require a blanket public health response. Using Covid as an example, it is clear that there may be circumstances where a public health threat necessitates a different response or differing restrictions or requirements being put in place in different parts of the country depending on the circumstances at the time. Insofar as possible when making regulations under these provisions, the circumstances in different communities, such as island communities, will be considered and assessed when determining how best to respond to the threat across Scotland. As outlined above, any impact on island communities that is different to other communities would be dependent on the nature of the intervention being considered and would therefore not be known until the regulations are being planned and drafted. During that process appropriate impact assessments should be carried out.</p> <p>The Scottish Government notes that there is a review period built into the provisions – requiring that where regulations are made which impose or enable the imposition of restrictions and/or requirements the Scottish Ministers review the necessity of those regulations on a three week cycle. This ensures that any restrictions and</p>
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	<p>requirements which are imposed are regularly considered, in light of issues raised and changes to the nature or understanding of the public health risk.</p> <p>Public Service Reform</p> <p><u>Online meetings and hearings</u></p> <p>With regard to <u>Requirements of writing: Disapplication of physical presence requirements</u>, these provisions create the opportunity for Scottish notaries public, solicitors and advocates themselves based in or supporting clients based in island communities to adopt alternative appropriate means of executing documents and oaths etc., for example notaries may now execute documents remotely, for example by live video connection.</p> <p>In terms of the <u>Custody at police stations: Custody officers' functions</u> provisions, while there are no virtual custody hubs currently operating on the islands, or any immediate plans to do so, the provisions and the wider use of technology could enable the use of virtual custody in these communities and maximise court capacity to support efforts to address the consequences of the pandemic and justice transformation.</p> <p><u>Communicating by phone or online</u></p> <p>To take the example of <u>Registration of births and Registration of deaths</u>, the intended outcome of these provisions is to reduce the need for informants (e.g. parents) to travel to a local authority registration office to register a birth or death. The need to potentially travel a long distance to get to a registration office may be particularly apparent in remote areas, including the islands.</p> <p>The <u>Land registration</u> provisions will ensure island-based solicitors can submit applications with the same immediacy as mainland-based solicitors, removing one of the possible disadvantages under the previous postal system of submission.</p>
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	<p>In terms of <u>Care services: giving of notices by SCSWIS</u> provisions it is anticipated that allowing the Care Inspectorate (also known as the Social Care and Social Work Improvement Scotland “SCSWIS”) to continue to provide notices electronically will serve to be a more effective method of delivery for care services in island communities where postal services may take longer to arrive than in mainland Scotland or are subject to cancellation due to unforeseen circumstances i.e. adverse weather conditions. Therefore the proposals are anticipated to improve the speed and reliability of notice delivery.</p> <p>Temporary Justice Measures</p> <p>Under the Bill provisions <u>Courts and tribunals: conduct of business by electronic means etc.</u>, the greater use of technology can alleviate the need to travel long distances, which may be a particular burden on residents in remote rural communities, including the Islands.</p>
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Step two – gather your data and identify your stakeholders

<ul style="list-style-type: none"> • What data is available about the current situation in the islands? 	<p><u>Evidence about internet access generally</u></p> <p>Information on internet connectivity by urban/rural 6-fold classification is published in the Scottish Household Survey, which contains percentages of households that have internet access in accessible rural and remote rural areas in Scotland – see most recent data is for 2019 and is available via this this Data Explorer. The most recent data discloses that 87% of people in “remote rural areas” had some form of internet access. Data for 2020 is scheduled to be published shortly.</p> <p>In terms of superfast broadband specifically Ofcom’s Connected Nations 2020: Scotland report (ofcom.org.uk) discloses that in 2020 there was 72% superfast broadband coverage in “rural” areas; with only 43% of rural Scotland having 4G</p>
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coverage from all operators. A superfast connection can be delivered through various technology types including fibre, fixed wireless, 4G and satellite.

Work is underway through the Reaching 100% (R100) policy to give everyone in Scotland (including on islands) access to superfast broadband. Similar work is underway on 4G mobile infrastructure and services at up to 55 mobile “notspots” in remote rural and island areas through the Scottish 4G Infill (S4GI) programme. Further information is available in the [ICIA for A changing nation: how Scotland will thrive in a digital world](#).

Public Health Protection

In terms of Arrangements for vaccination and immunisation provisions, the Scottish Government and its partner agencies, such as Public Health Scotland hold a variety of data regarding Primary Care services in the islands. This includes vaccination data.

A range of resources have been considered to a large extent to consider the impacts of vaccinations and immunisations on island communities. These include, but are not limited to:

- Shaping the Future Together: Report of the Remote and Rural General Practice Working Group (Scottish Government)
- COVID-19 vaccination in Scotland: Daily Update (Public Health Scotland)
- The Equality Impact Assessment (EQIA) for the COVID-19 and Flu Vaccination programme (Scottish Government)
- An EQIA to accompany this ICIA, considering the potential impact of removing certain vaccinations from core GP contracts on each of the protected characteristics (Scottish Government)
- [Vaccination Transformation Programme in Remote and Rural Western Isles \(NHS Western Isles\)](#)

	<p>Alternative delivery mechanisms include keeping vaccinations within GP practices, performed by GPs. For some areas, such as NHS Shetland, this may be the case for many directly run practices. However, it seems that a hybrid model of delivery involving some GP involvement will be the likely implementation method in island communities, due to their unique demographic and geographic nature.</p> <p>For example, Scalasaig Medical Practice on the Isle of Colonsay (Argyll and Bute HSCP) only has 176 patients. Therefore, it would not be as challenging for the GP to provide vaccinations in their surgery when compared to a larger, mainland urban practice with tens of thousands of patients.</p> <p>The successful integrated treatment room model of NHS Western Isles also shows how hybrid working can improve efficiency, as they combined the Vaccination Transformation Programme and Community Treatment and Care services, which led to an increase in schools flu vaccine uptake.</p> <p>Therefore, it is appropriate to consider a range of delivery mechanisms to improve outcomes for island communities. This is further demonstrated by the high rates of Covid vaccination uptake and the successful rollout in these areas.</p> <p>The resources required to improve outcomes for island communities are listed within the Shaping the Future Together: Report of the Remote and Rural General Practice Working Group:</p> <ul style="list-style-type: none">• Workforce• Digital and physical infrastructure• Change management capacity. <p>Removing the requirement does not mean GP practices cannot provide vaccinations; it just allows Health Boards (or indeed GP practices) more flexibility in delivering vaccination programmes. There is sufficient mitigation and flexibility for island communities that need it. The Vaccination Transformation Programme will also ensure any new delivery model is achieved without any adverse impact on safety or sustainability of current and existing vaccination programmes.</p>
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	<p>Education</p> <p><u>Schools</u></p> <p>We are not aware of any data related to the impact of previous public health restrictions specifically on schools in island communities but we can assume that factors relating to restrictions on access to in-person learning will have had an impact on children and young people living in Island communities.</p> <p>During the Covid pandemic an ICIA is maintained and updated to reflect the changing position regarding schools and the impact of Covid. <u>The August 2021 version is available here.</u></p> <p>The Scottish Government recognises that travel arrangements to regulated childcare settings and schools can be less flexible in island communities (along with other very remote communities), particularly where a family or pupil requires a ferry or plane to get to the setting or school.</p> <p>Some island authorities operate hostel accommodation for school pupils who cannot travel to school every day. This means that any restriction on the transport relied on by these pupils or on their hostel accommodation could impact particularly on island communities. There may be circumstances, e.g. an outbreak of a serious infection, where the provisions that relate to boarding school accommodation may have to be exercised. It is important to note that these powers have not been used during the Covid outbreak though their use cannot be ruled out for such accommodation.</p> <p>Island communities may have poor digital connectivity which may affect children's/pupils' ability to access remote learning.</p>
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	<p><u>Regulated childcare</u></p> <p>Data sources relied on relate to the impact of previous public health restrictions on regulated childcare settings within communities across the whole of Scotland. In addition, the Scottish Government has reviewed the <u>Island Communities Impact Assessment carried out for the expansion of Early Learning and Childcare (“ELC”) (reinstatement of 1140 statutory duty) in January 2021</u>, to understand potential island specific impacts.</p>
	<p><u>Further Education/Higher Education</u></p> <p>Although the scope of the powers being sought are such that they could be implemented in different ways, as circumstances demand them, in order to answer this question (and others listed) in a meaningful manner, the Advanced Learning and Science Directorate drew upon available information from the recent Covid pandemic.</p> <p>The Scottish Government’s Advanced Learning and Skills Analysis Division have access to Higher Education Statistics Agency and National Records of Scotland (“NRS”) data. This may be able to measure the number of island based students: both students at island based colleges (including Sabhal Mòr Ostaig) and those who have been studying from home during lockdown, but would otherwise be based in a non-island university or college. This can be demonstrated by the number of university students who have a home PC on an island or their term-time address.</p> <p>The Scottish Government’s Coronavirus (COVID-19): Advisory Sub-Group on Universities and Colleges gives detailed consideration to how public health and related scientific advice can be applied to operational implementation. <u>The meeting papers of the Group are available on the Scottish Government website</u>.</p> <p>The Group has considered various evidence about negative impacts that have been experienced by students, as a result of the current Covid pandemic, many of which</p>

	<p>are likely to have been exacerbated by the geographical circumstances of island communities. Loneliness and social isolation, for example that can accompany relocation to commence a programme of study, and financial concerns are listed amongst the key factors. Given the isolated nature of island communities it is possible that a prolonged period of online only learning could exacerbate social isolation and loneliness among students within island communities.</p> <p>As there are 5 colleges based in island communities, students could face disadvantages compared to peers living elsewhere in completing online learning due to poor digital connectivity caused by low quality internet connection (see section “Evidence about internet access generally” below). Students from island communities who study at non-island institutions but are not able to attend in-person learning as a result of online only learning being put in place could also be disadvantaged by an inadequate quality of digital connectivity. This may mean that these students are unable to complete learning at the same pace as other learners or in some cases may not be able to access learning at all.</p> <p><u>School consultation provisions</u></p> <p>In the six Island education authorities there are currently 395¹, schools of which 294² are classified as rural for the purposes of the 2010 Act (which confers additional requirements on education authorities when taking forward proposals to close a rural school).</p> <p>A total of 102 2010 Act proposals have been consulted upon in these education authority areas under the 2010 Act since it came into force in 2010. These proposals consulted upon have covered a range of issues including school closures and changes to catchment areas.</p>
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¹ School Contact details – July 2021 – published 1 September 2021 - [School contact details - gov.scot \(www.gov.scot\)](https://www.gov.scot/School-contact-details)

² Rural Schools List – published October 2021 - [Rural schools in Scotland - gov.scot \(www.gov.scot\)](https://www.gov.scot/Rural-schools-in-Scotland)

	<p>Key stakeholders include the six Island communities education authorities who conduct the 2010 Act consultation process, the National Parent Forum for Scotland who represent the views of parent councils and have representatives for each local authority area and the Scottish Rural Schools Network, which is a campaigning organisation on behalf of rural schools in Scotland.</p> <p>There are no quantitative or qualitative data/evidence sources that explore participation in public meetings or requests for paper copies of consultation documents. It is therefore not possible to identify any specific differential impacts in the Island communities.</p> <p>Public Service Reform</p> <p><u>Online meetings and hearings</u></p> <p>In terms of <u>Bankruptcy: remote meetings of creditors</u> provisions the facility to host virtual meetings of creditors has been highlighted as a positive development in encouraging creditor participation in bankruptcy proceedings resulting in meetings taking place that would otherwise not have been arranged in a physical environment.</p> <p>In terms of <u>Alcohol/Civic licensing: how hearings may be held</u> provisions, a licensing solicitor may be based on the mainland as opposed to the Island on which his/her client's licence hearing will be heard. Bad weather, flight cancellations for technical reasons are examples of scenarios which could prevent a licensing solicitor from physically attending a scheduled hearing. This would mean the hearing needing to be rescheduled and the applicant may face a potential loss of income depending on the nature of the hearing (i.e. application for a taxi driver licence) and the length of time before the hearing could be rescheduled.</p> <p>In terms of <u>Custody at police stations: Custody officers' functions</u> provisions, the Scottish Government recognises that travel arrangements between places of detention, such as police stations, and the court estate can be less flexible in island</p>
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communities (along with other remote communities), particularly where ferries or planes are required. There are currently no virtual custody hubs operating from police stations on the islands.

Communicating by phone or online

In terms of Care services: giving of notices by SCSWIS provisions, a recent Digital Inclusion study, undertaken by the Scottish Government, which focussed on the digital inclusion of care home residents, also highlighted that every care home that the study connected with, had an internet connection. This was also true of remote areas, though a small number of care homes said that connection could be “weather dependent”. Although this study was specifically on care home and not all care service providers, it demonstrates the wide range of internet/email accessibility including in remote areas.

Scottish Government Officials have consulted with the Care Inspectorate and since the introduction of the provision in April 2020, it has not served any enforcement notices on to Island based Care Services and therefore there is no evidence of this having an impact on island communities. The Scottish Government will, however, keep this under regular review and make changes where necessary.

Miscellaneous

The Mental health: removal of need for witnessing of signature of nominated person proposal seeks to remove the requirement for a nominated person to have their acceptance signature witnessed by a prescribed person. There is no specific data available on whether island communities are currently impacted by their location and subsequent access to a “prescribed person”.

	<p>Temporary Justice Measures</p> <p>In terms of <u>Courts and tribunals: conduct of business by electronic means etc.</u> provisions, data is available through the Scottish Courts and Tribunals Service monthly workbook which details the throughput of criminal cases in Scotland's courts. This shows the volumes of cases being progressed each month in the High Court, Sheriff Court and Justice of the Peace Courts from April 2020, compared against the monthly averages for 2019/20 (pre-Covid).</p> <p>Geographical statistics have been provided by the Scottish Courts and Tribunals Service ("SCTS") in order to identify any potential concerns that geographical location may impact users accessing Civil Online (the website for accessing online court notices). These statistics do not indicate any concerns or issues. A Sheriff Clerk from one remote court has confirmed this point.</p> <p>In terms of <u>Fiscal fines</u> provisions, it is likely that in general terms fewer people reported to the Procurator Fiscal for an alleged offence will be offered a fiscal fine as an alternative to court action in the islands overall than elsewhere in Scotland, though data is not available on proportional comparisons across the country. The impact for those who are offered a fiscal fine is likely to be the same as elsewhere in Scotland. General data on the use of fiscal fines as an alternative to court action is available in Justice Analytical Services Coronavirus (COVID-19) Data Report: September 2021: Justice Analytical Services Coronavirus (COVID-19) Data Report: September 2021 (www.gov.scot)</p> <p>In terms of <u>Failure to appear before court following police liberation</u> provisions, Police Recorded Crime statistics for 2020/21 (see Recorded Crime in Scotland, 2020-2021 (www.gov.scot)) shows that levels of recorded crime are lower in the three island local authorities than anywhere else in Scotland. As such, in terms of these provisions it is likely that in general terms fewer people are released on undertakings to appear in court for an alleged offence in the islands overall than elsewhere in Scotland, though data is not available on proportional comparisons across the</p>
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	<p>country. The impact for those who are released on an undertaking is likely to be the same as elsewhere in Scotland.</p> <p>In terms of <u>Criminal procedure time limits</u> provisions, it is likely that, given the lower levels of recorded crime in remote and island community areas when compared with Scotland as a whole, proportionately fewer people are directly affected as victims, witnesses or accused people by delays in criminal proceedings caused by the Covid pandemic, though the impact for those who are affected is likely to be the same as elsewhere in Scotland. Data on the increase in the number of scheduled trials outstanding in courts across Scotland between March 2020 and November 2021 indicates that the backlog of cases is, generally speaking, lower in courts located in the islands than elsewhere (an average increase of 63% compared to 140% for Scotland as a whole) and while specific figures for the islands for sheriff solemn courts are not available, the increase in the number of scheduled cases outstanding in the Sheriffdom of Grampian, the Highlands and Islands is 235% - marginally higher than the average for Scotland as a whole (221%)</p> <p>In terms of <u>Proceeds of crime</u> provisions, there is no relevant data held centrally on the application of the Proceeds of Crime Act 2002 on island communities.</p> <p>In terms of <u>Prisons and young offenders institutions</u> provisions, while the criteria for eligibility for early release process would not address geographical location, it is understood that individuals released from prison may face particular difficulties if they are travelling long distances to reach their home domicile after release. However, this would be applicable to all forms of prison release, and would not be specific to the early release process under this provision.</p>
<ul style="list-style-type: none"> • Who are your Key Stakeholders? 	<p>Generally, local authorities are amongst the key stakeholders for the Bill. All local authorities, and COSLA, were made aware of the 12 week public consultation "Covid Recovery: a consultation on public health, public services and justice system reforms" and whilst several councils did send in responses, Argyll and Bute Council was the only islands local authority to send in a response. This response is available</p>

via the Scottish Government's [Scottish Government's consultation portal](#), together with other responses where permission to publish was given.

Similarly, all territorial health boards were made aware of the consultation and whilst some boards sent in responses, boards covering island areas were not amongst them.

It is later mentioned in this ICIA that nearly 200 respondents offered free text responses to the islands impact question. It is likely that some of the respondents had experience of living in an islands community and these individuals are also key stakeholders.

Education

Schools

Officials engage regularly with local authority representative bodies COSLA, ADES and SOLAR whose membership include Island Community local authorities. Officials also engage regularly with Island Community local authorities and have set up strong links.

As mentioned above, during the Covid pandemic an ICIA is maintained and updated to reflect the changing position regarding schools and the impact of Covid.

Local authority managers of hostel accommodation were consulted on guidance relating to residential accommodation and when it was revised.

Officials also engage regularly with Island Community local authorities and have set up strong links. For example, the Director of Education for Shetland spoke at an Scottish Government event in October 2019 held for education authority officers who lead on 2010 Act consultations to give the Island communities' perspective.

	<p>Officials also met with bodies representing children, young people and parents during the course of the consultation period in relation to the proposals in the Bill.</p> <p>Officials met with the local authority representative bodies during the formal consultation held between August and November 2021 to discuss the proposals. In the main local authorities and organisations were supportive of the proposals in their formal responses to the consultation. Formal responses were received from Argyll and Bute Council who were supportive of the proposal though wished to go further and have the flexibility to hold such meetings virtually outside of periods where there is a public health emergency.</p> <p><u>Regulated childcare</u></p> <p>Officials engage regularly with local authority representative bodies COSLA and ADES Early Years Network, as well private and third sector representative organisations whose membership include island community local authorities and private and third sector settings (including Early Years Scotland, the National Day Nurseries Association, the Care and Learning Alliance, the Scottish Childminding Association and the Scottish Out of School Care Network). Officials also engage regularly with island community local authorities and have set up strong links.</p>
<ul style="list-style-type: none"> • How does any existing data differ between islands? 	<p>Public Service Reform</p> <p><u>Online meetings and hearings</u></p> <p>In terms of Registration of births provisions, NRS publish data on the number of live births registered in Scotland, split by local authority area³. For the three island authorities in 2020:</p> <ul style="list-style-type: none"> • Na-h-Eileanan Siar: 183 births registered

³ Please see table 3.08.

	<ul style="list-style-type: none"> • Orkney Islands: 183 registered • Shetland Islands: 176 births registered <p>In terms of <u>Registration of deaths</u> provisions, NRS also publishes annual data on the number of deaths recorded across all Scottish local authorities.</p> <p>Temporary Justice Measures</p> <p>While recorded crime is lower in all three of the island local authorities, it is higher in the Western Isles (205 crimes/10,000 people) and Shetland Isles (198/10,000) than the Orkney Isles (144/10,000).</p> <p>The increase in the number of outstanding scheduled summary trials in Stornoway Sheriff Court is notably higher than in the other island sheriff summary courts (205%) though not noticeably different from a number of other summary sheriff courts across the country.</p>
<ul style="list-style-type: none"> • Are there any existing design features or mitigations in place? 	<p>Public Health Protection</p> <p>As noted for the <u>Modifications of the Public Health Etc. (Scotland) Act 2008</u> provisions, the enabling provisions allow different provision to be made for different purposes, and that restrictions and requirements put in place under regulations need not be the same for all parts of the country. The power has the flexibility built in to tailor the public health response so as to take into account particular challenges faced by island communities. The extent to which restrictions and requirements could or may need to be tailored would be dependent upon the nature of the public health threat, the actions required to control it and the potential consequences of failing to mount an effective response.</p>

	<p>Public Service Reform</p> <p><u>Online meetings and hearings</u></p> <p>Whilst this ICIA highlights the benefits to residents of island communities, or professionals serving island communities, of reducing the need for travel to and from the mainland for meetings or hearings, it is important to note that none of the provisions make virtual meetings and hearings the only option available.</p> <p>In terms of <u>Bankruptcy: remote meetings of creditors</u> provisions it would be incumbent on the trustee to ensure that the meeting is conducted in a manner that is appropriate and convenient for the creditors to enable them to participate fully, to vote and be heard.</p> <p><u>Communicating by phone or online</u></p> <p>Whilst this ICIA highlights the benefits to residents of island communities of reducing the need for travel to and from the mainland to access public bodies' buildings or to rely on the post, the provisions do not remove the option of an in-person or postal service where appropriate.</p> <p>In terms of <u>Bankruptcy: service of documents</u> provisions electronic delivery is only permitted with the express agreement of the recipient and the ability for documents to be served in a non-electronic format will remain.</p> <p>With regard to <u>Registration of births</u> and <u>Registration of deaths</u> provisions, registration operates in the same way across Scotland, and traditionally involved the informant visiting the local authority registration office. This option will remain but the option of registering remotely will be available.</p> <p>In terms of <u>Care services: giving of notices by SCSWIS</u> provisions, if electronic delivery appears to have been unsuccessful, the Care Inspectorate will attempt to</p>
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electronically deliver the notice a further two times before attempting an alternative method. The Scottish Government understands that this reflects the same efforts that would have taken place should the notice have been sent by the postal service. Care service providers are able to indicate an unwillingness to receive notices electronically, having previously been willing to receive documents in this way, and the Care Inspectorate can also provide notices in various formats and languages on request, to aid accessibility.

Temporary Justice Measures

In terms of Courts and tribunals: conduct of business by electronic means etc. the provisions will not remove the option of traditional means of communication.

For intimation of court documents in many cases online publication is only one option available to the courts and other options may already be permitted, for example the option of publication in a newspaper is also sometimes available. SCTS also provide a telephone service during court opening hours for anyone unable to access the SCTS website.

In terms of attending a court or tribunal - the court and tribunal in every case retains the power to make directions which take account of the specific circumstances affecting parties to the proceedings.

In terms of Prisons and young offenders institutions provisions, following normal practice for release, Scottish Prison Service will offer assistance to prisoners approaching release – including those who may face particular issues with travel e.g. long distance, or accessing public services immediately following their release.

Step three - consultation

- Is there information already gathered through previous engagements?

Question 41 of the main consultation paper referred to above concerned island communities impact assessment and was as follows:

Do you have any comments on potential impacts of the proposals in Chapters 2 to 4 of this paper on people in rural or island communities?

Yes I have comments on potential impacts

No

Unsure

I have no view

If you have selected “Yes” please write your comments below. It would be helpful if you could refer to topics of particular interest to you with their topic codes.

179 respondents (of which there were nearly 3,000 in total) offered free text responses to this question. A full consultation analysis report is available via [this webpage](#). As the consultation analysis report highlights, whilst many responses touched on general issues affecting island communities, such as ferry services, they did not on the whole address how particular proposals within the consultation paper affect islands communities. In response to this question Argyll and Bute Council commented, “[we] would highlight positive impacts of remote/online meetings, registration, electronic signatures, etc. which have been experienced to date by those

living in our island communities, where many of the individuals living in these communities are generally older and/or have a lower than average income. Factors such as these in many cases can impact on ability to travel to carry out the aforementioned business in-person.”.

Education

Schools

As noted above, during the Covid pandemic an ICIA is maintained and updated to reflect the changing position regarding schools and the impact of Covid.

Officials engaged with local authority representative bodies noted above during the consultation period inviting all local authorities, including those from the Island Communities to respond, of which Argyll and Bute Council provided a response.

Regulated childcare

Information about specific issues faced by island communities in the delivery of ELC provision was gathered through consultation for the [Island Communities Impact Assessment carried out for the expansion of ELC \(reinstatement of 1140 statutory duty\) in January 2021](#). This information has been used to inform the Scottish Government’s understanding of the potential impact of the use of regulations to place restrictions on registered ELC settings in island communities due to a future public health crisis/pandemic.

Officials also engaged with the local authority and sector representative bodies noted above during the consultation period inviting all local authorities and representative bodies, including those from (or with membership from) the Island Communities, to respond.

	<p>Public Service Reform</p> <p><u>Communicating by phone or online</u></p> <p>In terms of <u>Land registration</u> provisions, ahead of the main consultation Registers of Scotland carried out a public consultation on behalf of Ministers between 22 December 2020 and 1 February 2021 on these proposals. This included inviting views on making digital submission the default to which the response was overwhelmingly in favour.</p> <p>In terms of <u>Freedom of Information: giving notice electronically</u> provisions, the Scottish Information Commissioner is in regular contact with public authorities throughout the country, including islands authorities, and has not flagged any island-related issues.</p> <p><u>Miscellaneous</u></p> <p>In terms of <u>Mental health: removal of need for witnessing of signature of nominated person</u> provisions, in response to the main consultation, the Royal College of Psychiatrists indicated support of this proposal and stated that “the requirement for written witnessed acceptance of the Named Person nomination can be impossible to achieve within an appropriate time frame. Examples of this include emergency situations or potentially when nominated Named Persons are living in remote and rural areas. Even where such barriers do not apply, there is inevitably a time delay between the patient's nomination and the witnessed acceptance of nomination that can impact the effectiveness of care and treatment, to the detriment of the patient”.</p>
<ul style="list-style-type: none"> • How will you carry out your consultation and in what timescales? Public meetings/ Local Authorities / Key Stakeholders 	<p>As mentioned, the full public consultation on the Bill has completed and a full consultation analysis report has been published.</p> <p>The Government is carrying further formal consultation on a number of matters associated with Bill provisions including A New Deal for Tenants - draft Rented</p>

	<p>Sector Strategy consultation and Bail and release from custody arrangements in Scotland. These and other Scottish Government consultations are hosted at Scottish Government - Citizen Space (consult.gov.scot).</p>
<ul style="list-style-type: none"> • What questions will you ask when considering how to address island realities? 	<p>As mentioned, question 41 of the main consultation paper specifically invited respondents to consider the impacts of consultation proposals on island communities.</p>
<ul style="list-style-type: none"> • Separate consultation events for Island communities / Local Authorities? 	<p>Specific Scottish Government teams and public bodies with responsibility for implementing the Bill will carry out appropriate targeted consultation on islands issues.</p> <p>Education</p> <p>For example on provisions for Educational establishments etc., the Scottish Government would maintain links with key stakeholders, for example, local authority representative bodies and with individual Island community local authorities (as was done during the Covid pandemic) and that this will help ensure that the specific circumstances of these communities is taken into account when exercising the above powers. It is also the case that before the powers can be exercised that Ministers must have regard to the advice of the Chief Medical Officer to ensure that the powers are being used appropriately and to support the prevention of infection.</p> <p>Public Service Reform</p> <p>Communicating by phone or online</p> <p>For example on Registration of births and Registration of deaths provisions, local authorities have responsibility for birth registration, under the direction of the Registrar General for Scotland at NRS. When implementing the provisions in the Bill on remote registration, NRS will discuss with local authorities, including the three</p>

	<p>island authorities and other local authorities with island communities, how birth registration services should best be configured in their areas.</p> <p>Temporary Justice Measures</p> <p>In terms of <u>Courts and tribunals: conduct of business by electronic means etc.</u>, the operation of the Courts is a matter for the Lord President of the Court and Session and SCTS who will continue to engage locally when making operational decisions.</p>
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Step four - assessment

<ul style="list-style-type: none"> • Does your assessment identify any unique impacts on island communities? (Further detail in the Guidance) <ul style="list-style-type: none"> ○ Demographic ○ Economic ○ Gaelic ○ Social 	<p>Education</p> <p>As per <u>Modifications of the Public Health etc. (Scotland) Act 2008</u>, this section of the Bill contains only enabling powers, the provisions themselves have no immediate impact on island communities; any such impact would come at the point of regulations being made under the powers contained in the Bill. While it is more challenging at this stage to identify potential impacts of regulations in relation to the public health powers (as it is impossible to predict which protective measures would be required for a future public health threat), and although it is not possible to predict the nature of a future health emergency or pandemic and what effects that would have on educational provision, it is not unreasonable to assume it could involve use of restrictions similar to those used during Covid and therefore the potential impact of future regulations can be explored further.</p> <p><u>Schools and regulated childcare</u></p> <p>The Scottish Government has considered whether the use of regulations to place any restrictions on access to, or experiences within, schools and regulated childcare settings is likely to have an effect on island communities that is significantly different from its effects on other communities (including other island communities) in Scotland.</p>
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	<p>The Scottish Government has identified the following issues which may flow from the use of regulations which may be more acute for island communities:</p> <ul style="list-style-type: none"> • Continuity of services – It is possible that the continuity of school and regulated childcare services within island communities may be impacted more acutely than in other parts of Scotland if regulations were introduced. For example, there are generally fewer and smaller schools and childcare settings available across island communities, and any staffing or supply chain issues may therefore be more acute for these communities. • Transportation – When considering restricting access to school and regulated childcare settings in island communities, transportation for staff delivering critical childcare (if appropriate to the health crisis) would need to be taken into consideration. This may be a particular issue for island communities where staff have to commute inter-island to get to their school or setting, particularly if there are wider restrictions on public transport. • Digital Connectivity - If restrictions were placed on access to schools and regulated childcare settings through the use of regulations, island communities may be impacted more by lack of digital connectivity. Digital connectivity is a key enabler for parents to access support for learning for their children and young people, and the National Islands Plan recognises that access to good quality digital infrastructure for all is essential to improving the educational outcomes for children and young people on the islands. Good digital connectivity is increasingly vital for education and would be particularly important should access to schools and regulated childcare be restricted by regulations. <p><u>Further Education/Higher Education</u></p> <p>The Scottish Government believes there is a strong possibility of increased isolation for rural communities, poorer outcomes in terms of post-graduation employment and students</p>
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suffering during home study due to poorer digital connectivity. As noted above however, there would be difficulties in providing data to support this.

Given the focus in this ICIA on the Bill themes “Online meetings and hearings” and “Communicating by phone or online”, which are considered to potentially impact differentially in the islands, the following geographic/social impacts are considered to be most relevant:

- Some island communities are geographically disconnected from registration offices, tribunal buildings or other public bodies’ premises.
- Broadband and mobile internet coverage in some island communities is not always as robust as in other parts of Scotland.

School Consultation provisions

These proposals would give Ministers power to relieve education authorities, in the event of a public health emergency, from the requirement to hold in-person public meetings and to make available paper copies of relevant consultation documents. This may be of benefit to some in island communities given the significant distances and reduced access to transportation that may affect travel to public meeting venues. In addition, making consultation materials usually available in hard copy at council offices via alternative means would help Island communities in particular where travel is more difficult especially during a possible health crisis. Those with an interest will still be able to access documents where restrictions are in place.

It should also be noted that during the Covid pandemic there were periods where fewer restrictions were in place due to the remoteness of the communities and reduced prevalence of the virus. Therefore, it may be the case that 2010 Act consultations can proceed with “in-person” public meetings or not have to rely on making paper copies of consultation documents via alternative means. In such cases Island authorities will not be

	<p>able to successfully apply to be able to access the planned flexibilities which could be available to other local authorities in other parts of Scotland</p> <p>Public Service Reform</p> <p><u>Online meetings and hearings</u></p> <p>In terms of <u>Bankruptcy: remote meetings of creditors</u> provisions, the ability to hold virtual meetings of bankruptcy creditors virtually would improve efficiency and reduce the costs (for example, the costs of creditors and the trustee travelling to attend a meeting in a physical environment and costs involved in hiring a venue) – potentially increasing the returns paid to creditors.</p> <p>In terms of <u>Requirements of writing: Disapplication of physical presence requirements</u> provisions, the Bill would allow greater access, convenience, and flexibility to those who may require such legal services, whilst facilitating a move to a more digitalised justice sector. The provisions may be of particular benefit to the on island communities as they may improve efficiency and reduce the costs associated with travel.</p> <p><u>Communicating by phone or online</u></p> <p>In terms of <u>Registration of births</u> and <u>Registration of deaths</u> provisions, the island authorities, and other authorities with island communities, may have more interest in providing remote registration than urban authorities as people may have to travel further, at greater inconvenience and expense, to physically attend a registration office.</p> <p>Tenancies</p> <p>Island communities have significantly less rental stock than other areas of Scotland and can often face supply issues that are impacted by wider issues such as the prevalence of second homes and short term lets. Therefore the extra layer of protection against eviction</p>
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and homelessness afforded by the pre-action protocol and Tribunal discretion provisions may particularly benefit those living in the rental sector in island communities.

Temporary Justice Measures

In terms of National jurisdiction for callings from custody etc. provisions, an assessment has not identified any specific issues that will significantly differentially affect island communities relating to the operation of a national jurisdiction for custody cases as compared to the rest of the country. Providing for a national jurisdiction for custody cases allows custody courts to be conducted in a way which minimises unnecessary travel and congregation of people that could increase the spread of Covid. The measure also enables Police Scotland and SCTS to operate a smaller number of centralised police custody suites and court hubs in response to Covid as needed. As people may be held in a smaller number of designated police custody suites (as facilitated by these jurisdictional provisions) they may also require to travel greater distances than they ordinarily would to the centralised custody suite prior to their appearance in court. An example is where an individual is arrested in, for illustrative purposes, Stonehaven for a crime allegedly committed there and is then taken to a centralised custody facility in Dundee, for appearance the next day at Dundee Sheriff Court by live link. Conversely, as this measure supplements the approach taken in virtual court appearances more generally, it may reduce the overall time an individual spends in police custody by enabling all matters to be heard in one court, which prevents the accused having to be transported across the country to appear at different courts on a different days. Any issues that may arise relating to individuals who have difficulty travelling greater distances for custody hearings will be taken into account on a case-by-case basis, including those residing on island communities. In particular and in recognition of the remote nature of island communities, the move to a smaller number of centralised police custody suites did not change or affect any custody suites serving the island communities where existing provision was maintained.

<ul style="list-style-type: none"> • Does your assessment identify any potential barriers or wider impacts? 	<p>Since broadband coverage in some island communities is as noted not as robust as in other parts of Scotland, online service provision under the Bill may not be as accessible to them.</p> <p>On the other hand, as noted since some island communities are geographically disconnected from public bodies' premises, phone or online means of accessing them may be beneficial in terms of minimising the need for unnecessary or burdensome travel.</p>
<ul style="list-style-type: none"> • Are there mitigations in place for these impacts raised? 	<p>The Government considers that appropriate mitigations, to the extent that they can be legislated for, have been included in the Bill. Principally this is that nothing in the public service reform provisions exclude traditional in-person ways of doing things – online or telephone service is not mandated.</p> <p>Ongoing consideration will be given to what non-statutory mitigations might be appropriate. For example, in terms of <u>Registration of births</u> and <u>Registration of deaths</u> provisions, given potential costs of telephony for informants the intention is that, so far as possible, the costs of phone calls to obtain information to register a birth will be borne by the local authority (other than the small cost of a brief call to establish a telephone appointment). In some cases, it may be possible to use video conferencing.</p> <p>Another example is that in terms of the <u>Mental health: removal of need for witnessing of signature of nominated person</u> provisions, the Bill ensures that patients still have the ability to choose their own named person, while minimising any delays in the process of nomination caused by the pandemic. This in turn will reduce any delays in having the patient involved in their care and treatment decisions. This change is not affected by location and has potential to speed up the process for those in island locations as there will be no need to seek out a prescribed person (an independent advocate; medical practitioner; arts therapist, dietician, occupational therapist, physiotherapist, practitioner psychologist and speech and language therapist; person employed in the provision of, or managing the provision of, a care service; registered nurse; social worker; and solicitor) to act as a witness.</p>

Is a full Islands Communities Impact assessment Required?

<p>You must now determine whether, in your opinion, your 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).</p> <p>To form your opinion, the following questions should be considered:</p>	
<ul style="list-style-type: none">• Are there mitigations in place for the impacts identified and noted above from stakeholders and community consultations? (further ICIA action not required, complete section below and publish)	Yes, both statutory and non-statutory mitigations (as described above).
<ul style="list-style-type: none">• Does the evidence show different circumstances or different expectations or needs, or different experiences or outcomes (such as different levels of satisfaction, or different rates of participation)?	No; they are not markedly negative or unique to islands communities. There are intended and anticipated benefits to islands communities.
<ul style="list-style-type: none">• Are these different effects likely?	No; they are not markedly negative or unique to islands communities. There are intended and anticipated benefits to islands communities.
<ul style="list-style-type: none">• Are these effects significantly different?	No.

<ul style="list-style-type: none"> • Could the effect amount to a disadvantage for an island community compared to the mainland or between island groups? 	No.
<p>If your answer is No to the above questions, please complete the box below.</p> <p>If the answer is Yes, an ICIA must be prepared and you should proceed to Step 5.</p>	

A Full Islands Community Impact Assessment is NOT required

In preparing the ICIA, I have formed an opinion that our policy, strategy or service is NOT likely to have an effect on an island community which is significantly different from its effect on other communities (including other island communities). The reason for this is detailed below.

Reason for not completing a full Islands Communities Impact Assessment:

A partial ICIA has been prepared and published, which satisfactorily addresses the islands communities impacts of the Bill in line with available evidence and consultation input.



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