

Islands (Scotland) Bill

Financial memorandum

Introduction

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Islands (Scotland) Bill, introduced in the Scottish Parliament on 9 June 2017.
2. The following other accompanying documents are published separately:
 - Explanatory Notes (SP Bill 15-EN);
 - a Policy Memorandum (SP Bill 15-PM);
 - statements on legislative competence by the Presiding Officer and the Scottish Government (SP Bill 15-LC).
3. This Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.
4. The purpose of the Bill is to ensure that there is a sustained focus across Government and the wider public sector to meet the needs of island communities both now and in the future. It is expected that the measures in this Bill, in conjunction with existing Government, local authority and public body actions in meeting the needs of island communities, will contribute to creating the right conditions for sustainable economic growth.
5. This Financial Memorandum sets out the costs and savings associated with the Bill under the following headings, corresponding to Parts 2-5 of the Bill:
 - National Islands Plan;

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- Duties in relation to island communities;
- Representation of island communities;
- Development in the Scottish island marine area.

6. Under each of these headings substantive costs are then reported against the different bodies involved. The various estimates have been collated in consultation with other organisations including local authorities and the Local Government Boundary Commission for Scotland.

Part 2 – national islands plan

7. Part 2 of the Bill places a duty on the Scottish Ministers to prepare, lay before the Scottish Parliament and publish a 'National Islands Plan'. The Plan must set out the main objectives and strategy of the Scottish Ministers in relation to improving outcomes for island communities.

Costs on the Scottish Administration

8. Based on the preparation of other plans and the expected consultation activity in the creation of the Plan it is expected that the following costs will reasonably be incurred every five years when developing the Plan:

- Staffing costs of approximately £20,000 as 0.4 Full-Time-Equivalent;
- Consultation costs of approximately £75,000;
- Publication costs of approximately £5,000.

This amounts to an approximate cost of £100,000 every five years.

9. The Bill also requires that the Scottish Ministers must provide an annual update on the progress towards achieving improved outcomes for island communities and any other information the Scottish Ministers consider appropriate. As part of the progress report the Scottish Ministers must also provide information on any activity under the section 7 duty to have regard to island communities and island communities impact assessments that have been undertaken over the previous year. Based on the preparation of other annual reports it is expected that the following costs might reasonably be incurred each year:

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- Staffing costs of approximately £3,400 as 0.4 Full-Time-Equivalent over the two months before publication;
- Publication costs of approximately £5,000.

This amounts to a cost of £8,400 every year and will be subsumed within current budgets.

Costs on local authorities, other bodies, individuals and businesses

10. The duty in relation to the National Islands Plan will apply solely to the Scottish Ministers. There will be no cost beyond that incurred by the Scottish Administration.

PART 3 – duties in relation to island communities

11. Part 3 of the Bill places a duty on the Scottish Ministers and other relevant public bodies to have regard to island communities in exercising their functions. Under the Bill an island communities impact assessment would need to be prepared when a new or revised policy, strategy or service is likely to have a significantly different effect on island communities from its effect on other communities. For the Scottish Ministers the duty also applies to the development of legislation. The duty created under the Bill is often referred to as ‘island-proofing’.

12. The new duty will apply to the relevant public bodies and should operate within their existing systems and frameworks. In carrying out their processes and functions – such as the creation of new plans, policies and legislation and in the design and delivery of services – the relevant public bodies covered by the duty will need to identify and address, as they consider appropriate, the differential impact the new policy or service might have on island communities.

13. For those public authorities who are already taking the impact of their policies and functions on island communities into account within their strategic planning process the duty is likely to have minimal additional impact. However, across other public authorities the duty will help them to build on existing processes and embed an island communities impact assessment into their work.

Cost assumptions

14. The creation of this duty to ‘island-proof’ and the requirement to undertake an island communities impact assessment under certain circumstances is similar to the need to undertake an Equality Impact Assessment under equalities legislation and the duty to take account of socio-economic disadvantage when public authorities are making strategic decisions. Therefore, for the estimate of the costs in relation to island communities impact assessment we use a similar approach to that used by the Government Equality Office in assessing the potential impact of the socio-economic duty in the Equality Act 2010¹. Using that approach the main cost of the legislation is taken to be the time required for authorities to familiarise themselves with the legislative requirements and the time taken on an ongoing basis to ensure that appropriate information and data feeds into the relevant decision-making process. The Government Equality Office assumed that familiarisation and integration would be done by an official in each public sector organisation and costs were calculated on that basis including a 21% uplift for non-labour costs.

15. For the ‘island-proofing’ duty it is assumed that familiarisation will take a senior official (or equivalent) one day to familiarise themselves with the duty and a further three days to integrate ‘island-proofing’ into the policy process within their organisation where this is not already the case and then one day’s work each year on an ongoing basis. Guidance will be developed for public authorities in relation to the new ‘island-proofing’ duty following the passage of the Bill and this will help authorities in the understanding, implementation and integration of the new duty.

16. The assumption that compliance will take five days is a limitation on the accuracy of this cost assessment. It is not known how long it will take authorities to familiarise themselves with the duty and to adjust their policy processes to accord with it. This will depend to some extent on the degree to which authorities are already taking island issues into account when formulating policies. If the time required is less, then the overall cost of the duty will be correspondingly less. Further, the efficiency of existing processes for feeding appropriate information and data that may arise as a

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/243602/9780108508677.pdf

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result of an island communities impact assessment will affect the need for and extent of ongoing costs.

17. As the approach to island-proofing represents good practice, any costs over and above familiarisation with, and integration of, the new legislation is judged to be ‘business as usual’ and is not costed.

Costs on the Scottish Administration

18. As the ‘island-proofing’ duty will have an impact across the Scottish Government we can assume that rather than treating the Government as a single institution as was done under the approach of the Government Equality Office we should look at the organisational structure and apply the calculation at a Directorate level to provide a more reasonable estimate of the costs across the Government. There are 36 Directorates across the Scottish Government and eight Executive agencies. It is unlikely that the Bill would impact on all Directorates and Agencies equally as their policies will differ in their potential impact on island communities. However, in order to estimate the potential costs we have applied the approach described above equally to all the Directorates and Executive agencies. The cost is calculated for the four days of familiarisation and integration and one day for ongoing costs for a senior officials time uprated by 21% to cover non-labour costs.

For familiarisation and integration

The cost per Directorate/Agency is:

Number of days X senior official daily cost = Cost per Directorate/Agency

4 days x £317 = £1,268

The total cost for familiarisation with the new duty is:

Cost per Directorate/Agency X number of Directorates/Agencies = Total Cost

£1,268 x 44 = £55,792

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Ongoing costs

The cost per Directorate/Agency is:

Number of days X senior official daily cost = Cost per Directorate/Agency

$$1 \text{ days} \times \text{£}317 = \text{£}317$$

The total ongoing cost with the new duty is:

Cost per Directorate/Agency X number of Directorates/Agencies = Total Cost

$$\text{£}317 \times 44 = \text{£}13,948$$

Costs on local authorities

19. Using the same approach for the six local authorities who are listed as relevant authorities in the Bill and using an equivalent senior salary and an additional 21% for non-staff costs we can calculate the costs as:

For familiarisation and integration

The cost per local authority is:

Number of days X senior official daily cost = Cost per local authority

$$4 \text{ days} \times \text{£}351 = \text{£}1,372$$

The total cost for familiarisation with the new duty is:

Cost per local authority X number of local authorities = Total Cost

$$\text{£}1,268 \times 6 = \text{£}8,424$$

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Ongoing costs

The cost per local authority is:

Number of days X senior official daily cost = Cost per local authority

1 days x £351 = £351

The total ongoing cost with the new duty is:

Cost per local authority X number of local authority = Total Cost

£343 x 6 = £2,106

Costs on other bodies, individuals and businesses

20. There are 65 other public authorities listed as relevant authorities in the schedule to the Bill. As with the Scottish Government, it is unlikely that the Bill would impact on all bodies equally as their functions will differ in their potential impact on island communities. However, in order to estimate the potential costs we apply the approach described above equally to all the other public bodies. We use the Scottish Government senior official average cost as a proxy to cover the range of public bodies in the schedule, again uprated by 21% to cover non-pay costs.

For familiarisation and integration

The cost per public body is:

Number of days X senior official daily cost = Cost per public body

4 days x £317 = £1,268

The total cost for familiarisation with the new duty is:

Cost per public body X number of public body = Total Cost

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$\pounds 1,268 \times 65 = \pounds 82,420$
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Ongoing costs

The cost per public body is:

Number of days X daily rate = Cost per public body

1 days x £317 = £317

The total ongoing cost with the new duty is:

Cost per public body X number of public body = Total Cost

£317 x 65 = £20,605

21. The duty in relation to the ‘island-proofing’ duty will apply solely to the relevant authorities listed in the schedule. There will, therefore, be no cost to other individuals or businesses.

Part 4 – representation of island communities

22. Part 4 of the Bill contains two distinct elements relating to the Scottish parliamentary constituency of Na h-Eileanan an Iar and the review of wards in local authority areas that contain inhabited islands.

Constituency of Na h-Eileanan an Iar

23. Section 11 ensures that the Na h-Eileanan an Iar Scottish parliamentary constituency will continue to be a distinct constituency for elections to the Scottish Parliament.

Costs on the Scottish administration, local authorities, other bodies, individuals and businesses

24. The impact of the Bill is to protect the current constituency of Na h-Eileanan an Iar as a distinct constituency under law: no other changes are necessary and no costs will arise.

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Review of wards in local authority areas that contain inhabited islands

25. Sections 12 and 13 of the Bill provide more flexibility to the Local Government Boundary Commission for Scotland (LGBCS) when looking at the representation of inhabited islands within a local authority and making recommendations. This is to help allay concerns that island communities are not being fully represented in council discussions.

Costs on the Scottish administration

26. These sections of the Bill will apply to the LGBCS. There will be no additional costs as a result of the Bill to the Scottish Administration.

Costs on local authorities

27. The Bill does not place any new duties on local authorities. However, during discussions with local authorities they indicated that should they wish to respond to the review by the Local Government Boundary Commission for Scotland on the electoral arrangements in their area then there could be additional costs. The range of additional costs for the review of wards could total a maximum of £30,000 for each local authority. Taking the high end of that range then the total cost for the six local authorities could be up to £180,000.

Costs on other bodies, individuals and businesses

28. The Bill requires the LGBCS to conduct a review of electoral arrangements for the six local authorities listed “as soon as practicable”. The LGBCS completed the 5th Reviews of Electoral arrangements in May 2016 and in the normal course of events would have commenced the 6th Reviews in 2023. Until that time, work would be anticipated to be low level and generally the Commission would budget for up to four meetings per year and one or two administrative reviews per year, conducted as necessary. However, transfer of responsibility for Scottish Parliament boundaries, expected in Spring 2017, as well as a commitment to consider the report of the Scottish Parliament Local Government and Communities Committee into the 5th Electoral Reviews, mean that additional work for the LGBCS is already likely to take place. It is important to remember that the LGBCS is independent of Scottish Ministers and decisions around the conduct of reviews are for them. It is harder, therefore, to estimate exactly the additional work required for the proposed review of islands authorities. However, the LGBCS has indicated that these costs generally fall in three areas: staffing costs; costs of Commission meetings; and review costs.

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Staffing costs

29. Staffing to support the review will be provided by the secretariat to the LGBCS. The secretariat is staffed by civil servants employed by the Scottish Government and paid according to Scottish Government salary scales. The secretariat also support the Boundary Commission for Scotland (BCS), sponsored by the Scotland Office, which pays a proportion of overall staff costs, accommodation and IT costs. Conducting the review during 2018 may result in some overlap of review work being conducted by both the BCS and the LGBCS. One or two additional staff members may be required at a cost between £35,000 and £70,000 p.a. Any new staff would also require IT and accommodation provision which would be in the region of £2,300 per member of staff.

Commission meetings

30. Costs per meeting of the Commission are estimated at £2,200 per meeting. It is expected that two additional meetings will be required in 2017-18 with further meetings in subsequent financial years. It is anticipated that the review of all six authorities would take between two and three years.

Review costs

31. Non-staff review costs are principally comprised of the costs of consultation and the cost of final report publication. At this stage it is not possible to pre-empt Commission decisions about these, but best estimates include:

- Travel to visit the islands local authorities and possible other visits to islands areas - £10,000;
- Public notices in newspapers circulating in the areas - £20,000;
- Consultation portal – costs from earlier reviews conducted by the LGBCS and the BCS, where a portal has been commissioned from external contractors, suggest these could be as high as £100,000. LGBCS is considering the cost effectiveness of consultation options and the secretariat is exploring cheaper, in-house solutions which would still allow the public access to online mapping and comment submission;
- Other publicity and consultation including social media, direct mailing, public meetings and local inquiries - £30,000.

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32. These costs can be considered as the best estimate until the Commission itself considers its approach to the review, makes decisions about consultation and publicity arrangements and responds to views from local authorities and others during the review itself.

Islands development licences

33. There was broad support in the 2015 consultation to extend the powers that Councils could use in the Zetland and Orkney County Council Acts of 1974 to cover other island authorities. As outlined in the Policy Memorandum it has become clear that it would not be viable to directly amend or extend them to other island authorities.

34. Building on the current use of the Zetland Act by Shetland Islands Council, where they have a power to grant marine works licences, the Scottish Government is keen to provide other island local authorities with the opportunity to have more control in the development of the seas around their island communities. The Bill gives the Scottish Ministers a delegated power to create a works licensing scheme in respect of marine development in island areas. Should a local authority with inhabited islands wish to become a licensing authority for these purposes then it can apply to the Scottish Ministers to exercise the new works licensing powers.

Costs on the Scottish administration

35. Part 5 of the Bill provides that, before laying any draft regulations before the Scottish Parliament, the Scottish Ministers must consult those representing the interests of island communities and any person who are likely to be affected by the regulations. Based on previous consultations for regulations this could cost up to £25,000 for each consultation.

36. Regulations made under section 18 may make provision for penalties if a person has committed an offence or a contravention under the regulations. Under section 18(5) this could include a fine of up to £50,000 on summary conviction or any fine on indictment. At this stage it is difficult to estimate the administrative cost to the Scottish Ministers in relation to the payment of penalties or fines should a case be taken through the courts. Similarly for the costs of any fixed monetary penalties imposed under the regulations, which are limited to £50,000 under section 18(6). Fines and fixed penalties are dependent on the content of the regulations and the compliance rate with the licensing regime, specifically the number and type of offences and contraventions that may be committed in the future. Given

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the estimated number of licence applications, the total number of fines and monetary penalties imposed is not expected to be significant, meaning that the related cost to the Scottish Ministers should not prove significant.

Costs on local authorities

37. Should a local authority ask to be designated as an authority in whose area an island marine development licence is required after the regulations are drafted and approved by the Parliament following a consultation, then the main cost that would fall on local authorities would be the set up and ongoing staffing costs. Shetland Islands Council had a budget in 2016-17 of approx. £150,000 to cover 'marine development'. This includes two officers who work on marine development consents, the bulk of which relates to aquaculture development (under the terrestrial planning system) but also includes works licensing under the Zetland County Council Act. It is difficult to disentangle the work solely on marine licences from the other work undertaken in Shetland and produce an accurate assessment of cost. As a reasonable assumption, erring on the high cost side, we estimate that ongoing costs could be in the region of £75,000 per authority. This will vary between authorities.

38. Shetland Islands Council estimate that it receive between six or seven licence applications on an annual basis. While the degree of work required to be undertaken for each licence will be dependent on the actual application it is adequately covered by the current staffing and budgeting arrangements.

39. Should a local authority wish to establish an island marine licensing scheme it would need to consider how it would integrate into its current functions, including its planning functions, and how efficiently and effectively it could be delivered. The detailed terms of the scheme as established by the Scottish Ministers in the regulations under section 18 would also have to be considered. This creates a large degree of uncertainty in estimating the costs of a local authority opting into such a marine licensing regime and operating it for six or seven applications a year. The number is quite small in the context of the number of terrestrial planning applications an authority might receive. The ongoing cost for Shetland Islands Council as described in paragraph 37 for marine development might serve as a reasonable proxy and best estimate for the set up and running of an island marine development scheme.

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40. The Bill also allows that the scheme which is set up can include charging fees for the reasonable administrative costs involved in processing an application for a marine development licence. This will mitigate the ongoing costs for local authorities.

Costs on other bodies, individuals and businesses

41. The main cost that might fall on individuals or businesses is the cost of a licence application. Currently Shetlands Islands Council does not charge for the application and processing of marine works licences as there is no power to charge a fee under the Zetland County Council Act 1974.

42. The clearest precedent for a fee regime is that operated by Marine Scotland. Fees for Marine Licence applications are set on 1st April each year in accordance with the Marine Licensing (Fees) (Scotland) Regulations 2011 (as amended)² and are linked to the Consumer Price Index for February of the previous financial year. This is set out on the Marine Scotland website.³

43. For general licensable activity, where the likely cost of carrying out a project or activity (as the case may be)—

- (a) is no greater than £2,500, the fee is £57;
- (b) is greater than £2,500 but no greater than £5,000, the fee is £169;
- (c) is greater than £5,000 but no greater than £50,000, the fee is £667;
- (d) is greater than £50,000 but no greater than £2 million, the fee is £2,225;
- (e) is greater than £2 million but no greater than £5 million, the fee is £4,445;
- (f) is greater than £5 million but no greater than £20 million, the fee is £13,325;
- (g) is greater than £20 million but no greater than £50 million, the fee is £22,200;
- (h) is greater than £50 million, the fee is £33,295.

² http://www.legislation.gov.uk/ssi/2011/78/pdfs/ssi_20110078_en.pdf

³ <http://www.gov.scot/Topics/marine/Licensing/marine/feestructure>

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44. There are other fees associated with generating stations and dredging. In providing for reasonable administrative costs the local authority would have to assess an application for its impact on the costs to the authority. As an applicant for an island marine development licence would also have to apply for a Marine Scotland licence we would expect that the local authority and Marine Scotland would work closely together to reduce the administrative impact and cost on the applicant as the information required for each organisation will no doubt overlap. At this stage it is difficult to quantify what the costs to individuals and businesses might be as it would depend on the scheme established and also the costs of the specific projects. In order to estimate what those costs might be we use the Marine Scotland fees as a proxy and estimate a possible range for each local authority area.

45. If we assume the current demand in Shetland as seven licence applications a year is applicable across a new licencing scheme. If these are all applications for projects with a cost of no greater than £2,500 then the total costs would be 7 x £57 leading to a total cost of £399. Should the applications be for projects with a cost of greater than £50 million then the total cost would be 7 x £33,295 leading to a total cost of £233,065. This would be subject to variation in the number of licence requests which would shift the range up or down depending on demand.

Summary of Costs

46. Table 1 provides a summary of the additional costs expected as a result of the Bill provisions being introduced.

Table 1: Summary Table of additional costs expected as a result of provisions being introduced

Topic	Financial Memo Paras	Costs on Scottish Administration	Costs on local authorities	Costs on other bodies, individuals or businesses
National Islands Plan	Paragraphs 7 – 10	Development of the Plan: £100,000	Nil	Nil

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		every five years Annual progress update: £8,400 each year		
Duties in relation to island communities	Paragraphs 11 – 21	Familiarisation and integration: £55,792 Ongoing: £13,948 each year	Familiarisation and integration: £8,424 Ongoing: £2,106 each year	Familiarisation and integration: £82,420 Ongoing: £20,605 each year
Representation of island communities	Paragraphs 25 – 32	Nil	Local authorities estimated costs up to £30,000 for each local authority.	Cost to the Local Government Boundary Commission for Scotland: <i>Staffing:</i> Additional staff: £35,000 to £70,000 per annum Non-labour costs: £2,300 per additional member of staff <i>Commission meetings:</i>

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				<p>£2,200 per meeting</p> <p><i>Review costs:</i> Costs for travel, promotion and consultation £160,000.</p>
<p>Development in the Scottish island marine area</p>	<p>Paragraphs 33 – 45</p>	<p>Consultation costs: £25,000 for each consultation.</p>	<p>Additional costs to establish and run a marine licensing scheme: £75,000 per authority.</p>	<p>Demand driven costs dependent on the number and type of applications within each authority area:</p> <p>Between £399 and £233,065 per annum.</p>

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