

Regulation of Legal Services (Scotland) Bill

Island Communities Impact Assessment

May 2023

Island Communities Impact Assessment – Regulation of Legal Services (Scotland) Bill

Step One – objectives:

What are the objectives of the policy, strategy or service?

The overarching policy objective of this Bill is to provide a modern, forward-looking legal services regulation framework for Scotland that will best promote competition, innovation, and the public and consumer interest in an efficient, effective, and independent legal sector. The Bill will implement a number of key recommendations from the ‘Independent Review of Legal Services Regulation in Scotland’ by Esther Roberton (the Roberton report).

The Bill made up of five parts as follows:

Part 1 deals with the overarching regulatory framework and breaks down into three chapters—

- Chapter 1 sets regulatory objectives and professional principles for the regulation and operation of legal services,
- Chapter 2 divides regulators into two categories and imposes different conditions based on the category to which a regulator is assigned,
- Chapter 3 provides for new regulators to enter the market and their members to acquire rights to provide legal services.

Part 2 introduces a requirement for category 1 regulators (at present just the Law Society of Scotland) to create and apply a set of rules for the regulation of legal businesses.

Part 3 reconstitutes the Scottish Legal Complaints Commission as the Scottish Legal Services Commission, adjusts its powers and provides for an updated complaints regime.

Part 4 makes provision in relation to a range of other matters, including—

- changing the ownership requirements for licensed legal services providers (sometimes referred to as alternative business structures) and adjusting the restrictions on their businesses,
- removing certain practising restrictions for charities and third sector organisations,
- creating a range of offences in connection with people pretending to be a lawyer or using particular titles etc. that would infer that they are regulated in a certain way,
- conferring power on the Scottish Ministers to require more (or fewer) legal services be provided only by regulated persons.

Part 5 deals with a number of general matters.

The Key themes of the Bill relate to:

- The regulatory objectives and professional principles
- The legal services regulatory framework
- Standards, monitoring & reporting
- Definition of legal services
- Alternative business structures
- Rights to provide legal services
- Regulation of legal businesses
- Protection of professional legal titles
- LegaTech
- Compensation funds and professional indemnity insurance
- The legal complaints system

A [consultation](#) including proposals developed collaboratively with stakeholders representing the legal sector and the consumer view ran between October and December 2021. The Scottish Government has carefully considered the responses, and the [consultation analysis report](#) was published in July 2022.

The responses to this consultation shaped the development of the legislative provisions included in the Bill.

Step Two – gather your data and identify your stakeholders:

What data is available about the current situation in the islands?

At the last Census (2011), a total of 93 islands in Scotland were inhabited, with a total population of 103,700 (2% of the total population of Scotland).¹

- Demographic – the average island resident was older than in the rest of/mainland Scotland – their median age was 45 (it was 41 in Scotland). While 21 per cent of island residents were aged 65 or over, the proportion nationally was 17 per cent.
- The proportion of island residents aged under 16 fell from 20 per cent in 2001 to 17 per cent in 2011.
- Economic – The proportion of island residents aged 16 to 74 who were in employment increased from 63 per cent in 2001 to 67 per cent in 2011.
- Island residents were more likely to be self-employed (13 per cent) or part-time employees (16 per cent) than in Scotland as a whole (7 per cent and 13 per cent respectively).

¹ [Inhabited islands report](#)

- Gaelic – In 2011, just over a fifth (23 per cent) of island residents aged 3 and over had some knowledge of Gaelic, a decrease from the 26 per cent recorded in 2001. The proportion of people with a full range of skills in Gaelic, i.e. those who could understand, speak, read and write in Gaelic, fell from 12 per cent in 2001 to 11 per cent in 2011. • Over half (52 per cent) of the population aged 3 and over in the Eilean Siar council area were Gaelic speakers. The highest incidence of Gaelic speakers was on the © Crown Copyright 2015 National Records of Scotland 6 island groups of Scalpay (76 per cent), Eriskay (73 per cent), South Uist (65 per cent) and Barra (63 per cent). The proportion of people aged 3 and over in Skye who could speak Gaelic was 30 per cent.
- Social - The proportion of households on the islands in social rented accommodation was 19 per cent compared with 24 per cent in Scotland as a whole, while the proportions for private rented or living rent free accommodation were 13 per cent in the islands and 14 per cent in Scotland. As in 2001, the island group with the highest proportion of owner occupation was East Burra (91 per cent), whilst the lowest proportions were in Fair Isle (15 per cent) and Gigha (23 per cent). Amongst island groups with over 500 households, Bute had the lowest proportion of owner-occupied households (55 per cent), while North Uist had the highest proportion (75 per cent). The island groups with the highest proportion of households in social rented accommodation were Vatersay (34 per cent), Fetlar (32 per cent) and Gigha (32 per cent). The island groups with the highest proportions of households in private rented or living rent free accommodation were Fair Isle (73 per cent), Gigha (45 per cent) and Eigg (45 per cent).

Specific points made in the consultation in respect of those based in remote areas, including the islands, related to:

- Concerns raised about the current appeals process for legal complaints, which require those who appeal about services complaints, who require to attend at the Court of Session which is based in Edinburgh.
- Positive reaction to greater use of legal technology to provide online or remote services delivered by qualified legal professionals using appropriate technology.

Who are the key stakeholders?

Key stakeholders include those who require legal services, ranging from individuals to public and private organisation, consumer groups:

- Law Society of Scotland
- Faculty of Advocates
- Association of Commercial Attorneys
- Scottish Legal Complaints Commission
- Competition and Markets Authority
- Consumer Scotland
- Citizens Advice Scotland

- Which?
- General public

How does any existing data differ between islands?

No information available.

Are there any existing design features or mitigations in place?

No information available.

Step Three – consultation:

Is there any information already gathered through previous engagements?

The legal services regulation reform consultation which sought views on reform ran between 1 October 2021 and 24 December 2021.

A number of bodies and organisations were engaged in the development of the consultation proposals, prior to publication of the consultation, throughout the 12-week consultation process and after. These included:

- The Law Society of Scotland (the Law Society / LSoS)
- The Scottish Legal Complaints Commission (SLCC)
- The Faculty of Advocates (the Faculty / FoA)
- The Association of Commercial Attorneys (ACA)
- Which?
- The Competition and Markets Authority (CMA)
- Citizens Advice Scotland (CAS)
- Scottish Legal Complaints Commission Consumer Panel

There has been extensive consultation and engagement with key stakeholders, alongside the public consultation exercise. The consultation was open for 12 weeks, running from 1 October to 24 December 2021. A series of eight online focus group events were also conducted to gather feedback.

Focus Groups

The focus groups were highlighted at publication to individuals who had responded to a previous consultation in respect of legal complaints, but were open to anyone. The focus groups took place over MS Teams and consisted of a mix of those from the profession and members of the public with an interest (our target audience). The SLCC, CAS, and SWA were asked to promote the focus groups to users with lived experience of legal services or the complaints system.

Eight focus groups took place including a total of 33 individuals attended the focus groups, around 50% of attendees were lay and 50% were from within the profession.

The independent consultation analysis was published on 8 July 2022. A total of 158 substantive responses were included in the data analysis. Overall, 101 individuals and 57 organisations responded to the written consultation. Organisational responses were coded by sector, with 47 (82%) identified as representing the legal services profession, and 10 (18%) represented consumers.

Details of separate consultation events for island communities/local authorities?

N/A

Step Four – assessment:

Does your assessment identify any unique impacts on island communities? (Demographic, Economic, Gaelic, Social)

No

Does your assessment identify any potential barriers or wider impacts?

No

Are there mitigations in place for these impacts raised?

N/A

Is a full Islands Communities Impact assessment Required?

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).

To form your opinion, the following questions should be considered:

<ul style="list-style-type: none"> Are there mitigations in place for the impacts identified and noted above from stakeholders and community consultations? 	<p>While there may be some impacts to consider and mitigate during policy development (such as poor or no internet activity) there are no impacts identified to affect the drafting and introduction of this legislation. In person access would remain an option, mitigating those challenges. The specific provisions would not give rise to a full Islands Communities Impact Assessment.</p>
<ul style="list-style-type: none"> Does the evidence show different circumstances or different expectations or needs, or different experiences or 	<p>No; they are not markedly negative or unique to islands communities.</p>

outcomes (such as different levels of satisfaction, or different rates of participation)?	
• Are these different effects likely?	No; they are not markedly negative or unique to islands communities.
• Are these effects significantly different?	No.
• Could the effect amount to a disadvantage for an island community compared to the mainland or between island groups?	No.
If your answer is No to the above questions, please complete the box below. If the answer is Yes, an ICIA must be prepared and you should proceed to Step 5.	

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 will be published, which satisfactorily addresses the islands communities impacts of the Bill in line with available evidence and consultation input. While there may potentially be internet connectivity issues for island communities which could impact on remote access to these legal services, this is mitigated as in-person access would remain available.

ICIA completed by: Rebecca Smith

Position: Policy Officer

Signature:

Date completed:

ICIA approved by: Denise Swanson

Position: Deputy Director

Signature: Denise Swanson

Date approved: 26/4/23



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The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-80525-724-0 (web only)

Published by The Scottish Government, May 2023

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1272622 (05/23)

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