

Registers of Scotland: Island Communities Impact Assessment

Background: The Islands (Scotland) Act 2018 imposes a duty on the Keeper of the Registers of Scotland as one of a number of “relevant authorities”

- to have regard to island communities in carrying out their functions (section 7)
- to prepare an Island Communities Impact Assessment (ICIA) in relation to a policy, strategy, or service, which, in the relevant Authority's opinion, is likely to have an effect on an island community which is significantly different from its effect on other communities (section 8)

Brief Description of the policy, strategy or service:

The Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021 come into force 1 April 2022. The overarching purpose of the Regulations is to increase public transparency in relation to individuals who have control over decision-making in relation to land. They are intended to ensure there can no longer be categories of landowner or tenant where, intentionally or otherwise, control of decision-making is obscured. In conjunction with other transparency regimes, this means that it will be possible to look behind every category of entity in Scotland, including overseas entities and trusts, to see who controls land.

STEP ONE – DEVELOP A CLEAR UNDERSTANDING OF YOUR OBJECTIVES:

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

The regulations’ purpose is to establish a new register, the Register of Persons Holding a Controlled Interest in Land (RCI), to make publicly available information about those who have a controlled interest in land, i.e. those who ultimately make decisions about the management or use of land, even if they are not necessarily recorded as the owner of the land.

The new register will be established, held and maintained by the Keeper of the Registers of Scotland. Members of the public will be able to search the register for free and access the information online, enabling communities and individuals to benefit from the regulations and support the transparency aims of the policy.

Do you need to consult?

No, RoS is building the register to implement the regulations which have already been consulted on. A formal public consultation was carried out by Scottish Government prior to drafting the regulations, followed by a further consultation on the proposed draft regulations:

- *Improving transparency in land ownership in Scotland: a consultation on controlling interest in land was carried out between 11 Sep – 5 Dec 2016*
- *Delivering Improved transparency in land ownership in Scotland: a consultation on draft*

	<p>regulations) was carried out between 20 June – 5 Nov 2018</p> <ul style="list-style-type: none"> The policy development, draft regulations and accompanying explanatory document underwent parliamentary scrutiny with the lead committee, the Environment Climate Change and Land Reform Committee, taking evidence from key stakeholders such as Scottish Land and Estates, Community Land Scotland, the Law Society of Scotland, Global Witness, and the Scottish Property Federation.
How are islands identified for the purpose of the policy, strategy or service?	<p>RoS adopts the same definition of Island as that which is found in the Islands (Scotland) Act 2018, that is to say “island” means a naturally formed area of land which is (a) surrounded by the sea (ignoring artificial structures such as bridges), and (b) above water at high tide, and “inhabited island” means an island permanently inhabited by at least one individual.</p>
What are the intended impacts/outcomes and how do these potentially differ in the islands?	<p>The regulations place duties on landowners and long-term leaseholders, and persons who can influence or control them, to provide information in RCI.</p> <p>People who fall into scope of the requirements have one year from 1 April 2022 to make their entry to the Register, and after this transitional year it will be a criminal offence not to comply with the duties. Thereafter those who fall in scope must register within 60 days of becoming a person with a controlled interest in land.</p> <p>These duties cover all land in Scotland and will apply to landowners and long-term leaseholders irrespective if they reside in Scotland or overseas.</p> <p>The requirements to make an entry on RCI for people who fall within scope of the regulations will be identical for those who reside and/or own or tenant land on the Scottish mainland as they are for those who reside and/or own or tenant land on the islands.</p>
Is the policy, strategy or service new?	Yes

STEP TWO – GATHER YOUR DATA AND IDENTIFY YOUR STAKEHOLDERS:

What data is available about the current situation in the islands?	<p>The requirements to make an entry on RCI for people who fall within scope of RCI will be identical for those reside and/or own or tenant property on the Scottish mainland as they are for those who</p>
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	<p><i>reside and/or own or tenant property on the islands.</i></p> <p><i>It is recognised that crofting and crofting tenancies are more prevalent in the islands than the mainland. The majority of crofting tenancies will not require to register in RCI as only those tenancies which are for more than 20 year's and which are recorded or registered in the Register of Sasines or the Land Register are in scope. Most crofting tenancies and agricultural tenancies will not meet the requirement to be in scope of the regulations, as they tend not to be recorded or registered in the Register of Sasines or the Land Register.</i></p>
<p>Do you need to consult?</p>	<p><i>No formal consultation required, however RoS have conducted a full programme of user research, and stakeholder engagement and awareness raising activity as part of the design and development process of the new register. This design and development process follows the guiding principles of the Digital Scotland Service Standards.</i></p> <p><i>These activities include delivering webinar presentations, and targeted engagement with a wide range of professionals, some of who may fall within scope or have clients who fall within scope of the RCI duties.</i></p> <p><i>Our stakeholders include representation from Island communities.</i></p>
<p>How does any existing data differ between different islands?</p>	<p><i>No evidence has been presented as part of the two public consultations undertaken by Scottish Government, or as part of the stakeholder engagement and research conducted by RoS during the design process that indicate any island circumstances, or differences between islands, that required to be taken into account.</i></p>
<p>Are there any existing design features or mitigations in place?</p>	<p><i>None required, no evidence has been presented that indicates any island circumstances that require to be taken into account.</i></p> <p><i>The RCI service is fully digital.</i></p> <p><i>The service has been built following the guiding principles of the Digital Scotland Service Standards.</i></p> <p><i>In the event that applicants have insufficient or intermittent broadband we do not envisage this having a detrimental impact. People who are in scope of RCI initially have one year (1 April 2022 –</i></p>

	<p><i>1 April 2023) to complete relevant entries on RCI. Thereafter, they have within 60 days of becoming a person with a controlled interest in land to make an entry, and 60 days to update their entry from the point of an event or change in the information originally provided.</i></p> <p><i>The system has been designed to automatically save entered information, so applicants can resume an application rather than lose what they have already entered should their connection be intermittent.</i></p> <p><i>In the event that applicants have no access to broadband during the one-year or 60-day time periods, we will make available an assisted route to ensure they can make or update an entry or search information.</i></p> <p><i>The system will not prevent an applicant from making an entry if they make it after the 60 day period.</i></p>
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STEP THREE – CONSULTATION:	
Who do you need to consult?	<p><i>No formal consultation required.</i></p> <p><i>We have extended all of our stakeholder engagement and awareness raising activity across our established networks which includes legal professionals and other key stakeholders across the mainland and the Islands.</i></p> <p><i>Our stakeholder engagement and awareness raising activity will continue throughout the one year transitional period from the commencement of the register on 1 April 2022.</i></p>
How will you carry out your consultation?	<i>Not required</i>
What questions will you ask when considering how to address island realities?	<i>Not required</i>
What information has already been gathered through consultations and what concerns have been raised?	<i>No information or concerns have been presented or raised that indicate any island circumstances need to be taken into account.</i>
Is your consultation robust and meaningful and sufficient to comply with the Section 7 duty?	N/A

STEP FOUR – ASSESSMENT:

Does your assessment identify any unique impacts on island communities?

No evidence has been presented either through the public consultations for the proposed regulations, or through our user research and engagement activity that indicate any unique island impacts that require to be taken into account.

Does your assessment identify any potential barriers or wider impacts?

No potential barriers or wider impacts identified

How will you address these?

Not 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).

If your answer is **NO** to the above question, a full ICIA will be NOT be required and you can proceed to Step Six.

If the answer is **YES**, an ICIA must be prepared and you should proceed to Step FIVE.

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

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)?

Are these different effects likely?

Are these effects significantly different?

Could the effect amount to a disadvantage for an island community compared to the mainland or between island groups?

STEP FIVE – PREPARING YOUR ICIA:

Describe the likely significant different effect of the policy, strategy or service.

Assess the extent to which you consider that the policy strategy or service can be developed or delivered in such a manner as to improve or mitigate, for island communities, the outcomes resulting from it.

Consider alternative delivery mechanisms and whether further consultation is required.

Describe how these alternative delivery mechanisms will improve or mitigate outcomes for island communities.

Identify resources required to improve or mitigate outcomes for island communities.

STEP SIX – MAKING ADJUSTMENTS TO YOUR WORK:	
Should delivery mechanisms/mitigations vary in different communities?	<i>We do not consider this is required. As per all RoS products and services, access to RCI is online which promotes equality of access to all, including Island communities.</i>
Do you need to consult with island communities in respect of mechanisms or mitigations?	<i>No</i>
Have island circumstances been factored into the evaluation process?	<i>No evidence has been presented or identified that indicate any island circumstances that require to be taken into account</i>
Have any island-specific indicators/targets been identified that require monitoring?	<i>No evidence has been presented or identified that indicate any island circumstances that require to be monitored</i>
How will outcomes be measured on the islands?	<i>Not required</i>
How has the policy, strategy or service affected island communities?	<i>The service commences 1 April 2022. As with any new service we will monitor feedback, review and make appropriate and necessary enhancements to the service.</i> <i>The Keeper will provide the Scottish Ministers with any information that they may require for the purposes of monitoring the operation and effectiveness of the register. Scottish Government officials will use that to conduct effectiveness reviews from a policy angle.</i>
How will lessons learned in this ICIA inform future policy making and service delivery?	<i>No evidence has been identified that indicate any island circumstances that require to be taken into account</i>

STEP SEVEN – PUBLISHING YOUR ICIA:	
Have you presented your ICIA in an Easy Read format?	<i>Yes</i>
Does it need to be presented in Gaelic or any other language?	<i>No</i>
Where will you publish your ICIA and will relevant stakeholders be able to easily access it?	<i>Yes, RoS website</i>

Who will sign-off your final ICIA and why?	Jennifer Henderson, Keeper and Chief Executive, Registers of Scotland
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ICIA completed by:	Lynne Johnstone
Position:	Policy Lead, Registers of Scotland
Signature:	<i>Lynne Johnstone</i>
Date completed:	29/3/22

ICIA approved by:	Christopher Kerr
Position:	Registration and Policy Director, Registers of Scotland
Signature:	<i>Christopher Kerr</i>
Date approved:	1/4/22