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Coronavirus Acts: second report to Scottish Parliament

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Executive Summary

Overview

Our first two-monthly report on the Coronavirus Acts was published on 9 June 2020¹. As we set out in that report, and reiterate in this one, in seeking the Parliament's approval for the necessary legislation to respond to the coronavirus pandemic, the Government has been clear from the outset about two key points. First, that the legislation agreed by Parliament should be proportionate to the challenge and last only as long as required. Second, that the Scottish Parliament must have continued oversight of those provisions and hold Scottish Ministers to account for their use. This has continued to be central to the implementation, monitoring and review of the legislation. This second report covers the reporting period up to 31 July 2020.

Our first report was published a short time after the publication on 21 May 2020 of 'Coronavirus (COVID-19): Scotland's route map through and out of the crisis'² (the 'route map'). At the end of the second reporting period, we are now in phase three of the route map. Scotland has made major progress in tackling coronavirus (COVID-19) but now, perhaps more than ever, is a time of caution in choosing the next steps.

Our position has always been that creating additional powers does not automatically mean we will be required to use them and that decisions would be taken at the appropriate time, based on the situation here in Scotland and other parts of the UK.

As is demonstrated in this report, the powers in the legislation continue to be used proportionately and only where necessary. Some provisions have not yet been commenced as there has not been a need to do so, or have commenced but have not been required to be used in practice. In some cases, this is because these powers will be an important tool in supporting the lives and health of people living in Scotland, the economy, the public sector, and the third sector as we continue to transition out of lockdown. In other cases the powers are judged to continue to be necessary because they may be required in the event of any future resurgence of the virus. The continued necessity of the legislation will be kept under review throughout the reporting process.

The Scottish Government 'Coronavirus (COVID-19): framework for decision making'³ which was published in April 2020 set out seven core principles across our approach to responding to coronavirus (COVID-19). One of these was 'fair and ethical': committing us to uphold the principles of human dignity, autonomy, respect and equality, as we deal with the pandemic. In continuing to develop our approach to legislation and reporting, human rights and equality impacts have continued to be a key consideration at the heart of this process.

¹ Coronavirus Acts: first report to Scottish Parliament <https://www.gov.scot/publications/coronavirus-acts-two-monthly-report-scottish-parliament/pages/0/>

² Coronavirus (COVID-19): Scotland's route map through and out of the crisis - <https://www.gov.scot/publications/coronavirus-covid-19-framework-decision-making-scotlands-route-map-through-out-crisis/>

³ Coronavirus (COVID-19): framework for decision making <https://www.gov.scot/publications/coronavirus-covid-19-framework-decision-making/>

We are committed to ensuring transparency in the implementation of and reporting on the powers in the legislation. We have therefore gone beyond the statutory reporting requirements, by providing additional information where possible, and particularly for the powers which, at this time, we have judged to be of most significant impact and/or interest.

Scottish Ministers will continue to be answerable to Parliament for how the Scottish Government is responding to the pandemic, including the use of statutory powers.

Coronavirus legislation

In addition to reporting on the Coronavirus Act 2020 (the 'UK Act') and the Coronavirus (Scotland) Act 2020 (the 'first Scottish Act'), which were covered in our first report, this second report also covers the provisions contained in the Coronavirus (Scotland) (No.2) Act 2020 (the 'second Scottish Act').

This includes reporting on the provisions under Part 1 of the second Scottish Act. It also includes reporting on Scottish Statutory Instruments (SSIs) made by Scottish Ministers where the main purpose relates to coronavirus, other than those made by Scottish Ministers under the first or second Scottish Acts or the UK Act, as SSIs made under those Acts are already included in our reporting.

This report also reflects the new duties set out in section 15A of the first Scottish Act and section 13 of the second Scottish Act, that requires Scottish Ministers to take account of information from the Scottish Police Authority or the Chief Constable of the Police Service of Scotland about "the nature and the number of incidents of domestic abuse occurring during the reporting period to which the review relates", and to explain in the report on that review period, how the information was taken into account.

Each of the Acts provide powers and measures to help protect the public, maintain essential public services and support the economy. These measures are necessary because of the unprecedented public health and economic challenges posed by the pandemic. The second Scottish Act, which is new to our reporting in this period, covers four broad topics – individual protections, the operation of the justice system, adjustments to deadlines for reports and accounts, and some miscellaneous measures.

Our approach to reporting

We have always made clear that it would be essential that this legislation be supported by safeguards including regular reporting and review, and these were built into the first and second Scottish Acts. Section 15 of the first Scottish Act, and section 12 of the second Scottish Act require Scottish Ministers to review the operation of the provisions of Part 1 of those Acts in each reporting period, and every two months, report on the status of the provisions and make a statement that they are satisfied that the status of those provisions is appropriate.

The UK Act does not contain equivalent reporting requirements for the Devolved Administrations to those which require the UK Government to report on its non-

devolved provisions every two months. However, as was the case in our first report, we have reported in this second review period on the provisions of the UK Act for which the Scottish Parliament gave legislative consent, in a manner which is consistent with the reporting on the Scottish Acts, and which is in line with our previous commitment to do so.

When the first review for the period ending 31 May 2020 was undertaken, some of the measures under the UK Act and first Scottish Act had only been in place for a very short time, and the monitoring and reporting arrangements were in the early stages of development. Since this time, these arrangements have continued to be developed and refined. This has included information gathering to establish the operation of the powers at a local level where possible.

This is the first reporting period for the second Scottish Act. The monitoring and reporting arrangements for the provisions under this Act will also continue to be developed. The level of detail provided in the report for some of the provisions under the second Scottish Act, reflects that they are at a slightly earlier stage of implementation than the provisions under the other two Acts.

We continue to be cognisant of the important balance to be struck in the processes for obtaining information to support openness and transparency, with the need to avoid undue pressures to provide information on those at the front line of the coronavirus response. As with our first report, we have reported in most detail on the provisions which we have judged, at present, to be of the most significant impact or interest because of their impact on human rights, children's rights or equality, or because they are areas in which the Scottish Parliament has indicated a particular interest.

We have, in the development of this second report, reflected on the views and publications of key stakeholders with an interest in the areas of human rights, children's rights and equality impacts, including (but not limited to) the Scottish Human Rights Commission, the British Institute of Human Rights, the Children and Young People's Commissioner Scotland, and the 'Human Rights Leadership Advisory Note to the Scottish Government' which was published by Professor Alan Miller, Professor of Practice in Human Rights Law at the University of Strathclyde. We also recognise the interest and views of the Parliament's Equalities and Human Rights Committee which is paying particular attention to this in relation to the Government's response to the pandemic. We are grateful for the work that is being undertaken by the Parliament, stakeholders and others towards ensuring that human rights, children's rights and equality are protected at this time. We will continue to work to ensure that we consider carefully recommendations and best practice coming from this.

We support the addition of the duties in section 15A of the first Scottish Act and section 13 of the second Scottish Act to take account of information about the nature and number of incidents of domestic abuse occurring during the reporting period. We are clear of the need to ensure that robust and regular exchange of information about incidences of domestic abuse is collected and monitored during the pandemic and we were pleased to support these duties. This ensures that the specific impact that the current situation is having on those experiencing domestic abuse is

considered when reviewing the operation of the provisions in the Scottish and UK Acts.

Statement by Ministers on necessity and status of provisions

Scottish Ministers have undertaken a review of the operation of the provisions of Part 1 of the first and second Scottish Acts, and the provisions of the UK Act for which the Scottish Parliament gave legislative consent, in order to consider whether the provisions remain necessary. Ministers are satisfied that the status of those provisions at the end of this reporting period is appropriate.

Scottish Ministers have also undertaken a review of the Scottish Statutory Instruments (SSIs) to which section 14 of the second Scottish Act applies. Ministers are satisfied that the status of those SSIs at the end of the reporting period is appropriate. This report contains information as required by section 14 of that Act.

As at the end of the reporting period on 31 July 2020, all of the provisions in the UK Act for which the Scottish Parliament gave legislative consent have been commenced, with the exception of those in section 10 and schedule 9, and sections 25-29. All provisions in the first Scottish Act commenced the day after Royal Assent, with the exception of paragraph 11(1) of schedule 3 which has not been commenced in the reporting period. All provisions in the second Scottish Act commenced the day after Royal Assent. No regulations have been made to suspend or revive any provision, or to alter the date of expiry.

Use of powers contained in the Coronavirus Acts

Some of the powers in the legislation which were commenced immediately have supported key elements of our response to the pandemic, whilst others have not been needed due to effectiveness of other action taken or because thresholds for use have not been met.

The UK Act enables Ministers to consider suspension and revival of certain powers where they may be needed again in future. It also enables Ministers to permanently expire certain provisions which are considered to no longer be needed and in advance of the two year sunset clause in section 89 of that Act, and to extend certain provisions beyond the two year sunset period. The first and second Scottish Acts contain similar provisions for suspension and revival, and provisions can be considered for expiry in advance of the six month sunset provision which applies to Part 1 of the first and second Scottish Acts. Taken together, these safeguards help to ensure the powers in the legislation can be used appropriately and proportionately, and that the powers do not remain in force longer than they are required.

The regular reporting cycle for the provisions of the Scottish and UK Acts will enable us to keep the overall operation of the powers under review and inform decisions on when specific measures are no longer needed. Our decisions will be guided by the course of the pandemic and by the expert advice underpinning the Scottish Government's overall response to it.

Additional information

Within the material for each of the provisions covered in the report, links have been included to other relevant published material including declarations and directions relating to, or made under the powers in the Acts.

Next steps

We welcome the opportunity to further update the Scottish Parliament on the operation of the Coronavirus Acts and stand ready to engage with the Parliament in its scrutiny of this second report.

Michael Russell MSP

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Executive Summary

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1. Introduction

- 1.1. As required by section 15 of the Coronavirus (Scotland) Act 2020 (the ‘first Scottish Act’), and section 12 of the Coronavirus (Scotland) (No. 2) Act (the ‘second Scottish Act’), Scottish Ministers have conducted a review of the provisions in Part 1 of those Acts and have prepared this report. A review has also been conducted of the provisions of the Coronavirus Act 2020 (the ‘UK Act’) for which the Scottish Parliament gave legislative consent and these provisions are also covered within this report.
- 1.2. The first report to Scottish Parliament on the Coronavirus Acts⁴ which covered the reporting period ending 31 May 2020, was published on 9 June 2020. For the provisions under the UK Act and first Scottish Act, this second two-monthly report covers the reporting period 1 June to 31 July 2020. The second Scottish Act received Royal Assent on 26 May 2020 and was not covered in the first report. The information on the provisions of Part 1 of that Act in this report therefore covers the period from those provisions coming into force on 27 May 2020, to the end of the reporting period on 31 July 2020.
- 1.3. As per the requirements of section 15 of the first Scottish Act, and section 12 of the second Scottish Act, this report includes information on the operation of the provisions of Part 1 of each of those Acts. It also includes an update on the status of those provisions, and confirmation that Scottish Ministers are satisfied that the status of those provisions is appropriate. In addition to the information on operation and status which is provided for all of the above noted provisions, we have also reported in more detail on those provisions which we consider to be, at this time, of most significant impact or interest. For these provisions in particular, we have gone beyond the reporting requirements under the legislation, for example, by providing detail on the factors which have been considered in determining the continued necessity.
- 1.4. This report covers the additional reporting requirements to reflect the new duty in reporting that requires Scottish Ministers to take account of information about “the nature and the number of incidents of domestic abuse occurring during the reporting period to which the review relates” and explain in the report on that review how the information was taken account of. The report also covers the additional reporting requirements relating to Scottish Statutory Instruments (SSIs) made by Scottish Ministers where the main purpose relates to coronavirus, excluding those made by Scottish Ministers under the first or second Scottish Act or UK Act. Further information on those additional reporting requirements is included at [section five](#).

⁴ Coronavirus Acts: first report to Scottish Parliament - <https://www.gov.scot/publications/coronavirus-acts-two-monthly-report-scottish-parliament/>

2. Background

- 2.1. The UK Act received Royal Assent on 25 March 2020. The Scottish Parliament gave its consent to the provisions of the UK Act as far as they relate to devolved matters on 24 March 2020.
- 2.2. Section 97 of the UK Act sets out the requirements for the UK Government to report on the status of non-devolved provisions within the UK Act every two months.
- 2.3. The UK Act does not set out an equivalent statutory requirement for reporting by the Scottish Government or other Devolved Administrations. However, as per the approach in the first report to the Scottish Parliament, in this second report we have included information on the provisions of the UK Act for which the Scottish Parliament gave legislative consent, in a manner which is consistent with the reporting arrangements for Part 1 of both of the Scottish Acts.
- 2.4. In the first report to the Scottish Parliament, Scottish Ministers were satisfied that the status of the provisions under Part 1 of the first Scottish Act, and the provisions of the UK Act for which the Scottish Parliament gave legislative consent, was appropriate at that time.

3. Our approach to reporting

- 3.1. In continuing to develop our approach to reporting, which now includes the additional requirements under the second Scottish Act, careful consideration has been given to ensuring that this balances openness and transparency with the need to avoid placing undue pressures on those individuals and organisations at the heart of the coronavirus response.
- 3.2. For provisions under the first Scottish Act and the UK Act, some of which have now been in force over two reporting periods, data reporting, collation and monitoring processes which had been put in place for the first reporting period, have been further developed in this second reporting period. The reporting arrangements are more newly-established for the provisions under the second Scottish Act and in some cases require new data reporting and other monitoring arrangements to be put in place. Some of the work that has been carried out to support the monitoring and review process in this reporting period has included the development of the Scottish Government Justice Analytical Services data report on how the coronavirus pandemic has affected the justice system⁵. Our approach for reporting on all three Acts will continue to evolve and develop as more information on particular aspects of implementation becomes available.
- 3.3. We have recognised that some measures in the legislation may have greater impact than others in terms of their potential impacts on individuals or groups

⁵ Justice Analytical Services Coronavirus (COVID-19) Data Report: June 2020 edition
<https://www.gov.scot/publications/justice-analytical-services-coronavirus-covid-19-data-report-june-2020-edition/>

(people with one or more of the protected characteristics listed in the Equality Act 2010), or their implications for equality and rights. In addition, some provisions are of significant interest to the Scottish Parliament for other reasons.

- 3.4. As per the approach in the first report whereby we reported in most detail on the provisions of the first Scottish Act and UK Act which we had judged to be of the most significant impact or interest, we have also taken this approach to reporting on the provisions of Part 1 of the second Scottish Act which are being covered for the first time in this second report. For these provisions we have sought to provide detail over and above the reporting requirements under the legislation.
- 3.5. Assessment of the equality, human rights and children's rights impacts of the provisions is a central aspect of our review and reporting approach, and in developing our report we have sought to examine these impacts.
- 3.6. We have, in the development of this second report, reflected on the views and publications of key stakeholders with an interest in the areas of human rights, children's rights and equality impacts, including (but not limited to) the Scottish Human Rights Commission, the British Institute of Human Rights, the Children and Young People's Commissioner Scotland, and the 'Human Rights Leadership Advisory Note to the Scottish Government' which was published by Professor Alan Miller, Professor of Practice in Human Rights Law at the University of Strathclyde. We also recognise the interest and views of the Parliament's Equalities and Human Rights Committee which is paying particular attention to this in relation to the Government's response to the pandemic.
- 3.7. We are grateful for the work that is being undertaken by the Parliament, stakeholders and others towards ensuring that human rights, children's rights and equalities are protected at this time. We will continue to work to ensure that we consider carefully recommendations and best practice coming from this, including from the Independent Children's Rights Impact Assessment⁶ which was commissioned by the Children and Young People's Commissioner Scotland. We will continue to embed children's rights and human rights into our response to coronavirus and in our journey to recovery and renewal, including through the promotion of Child Rights and Wellbeing Impact Assessments (CRWIAs).
- 3.8. Consistent with the expectation that CRWIAs will be undertaken on all new policies and legislation, CRWIAs have been prepared and published for the first⁷ and second⁸ Scottish Acts. We are working with third sector organisations to monitor and support strategies to mitigate the economic and social impact of the coronavirus pandemic and to protect children, particularly those living in poverty.

⁶ Independent Children's Rights Impact Assessment on the Response to COVID-19 in Scotland - <https://cypcs.org.uk/wp-content/uploads/2020/07/independent-cria.pdf>

⁷ Coronavirus (Scotland) Bill: child rights and wellbeing impact assessment - <https://www.gov.scot/publications/coronavirus-scotland-bill-child-rights-welfare-impact-assessment/>

⁸ Coronavirus (Scotland) (No. 2) Bill: child rights and wellbeing impact assessment - <https://www.gov.scot/publications/coronavirus-scotland-no-2-bill-child-rights-welfare-impact-assessment/>

- 3.9. We are mindful of the three needs of the Public Sector Equality Duty (PSED) i.e. eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between people who share a protected characteristic and those who do not, and foster good relations between people who share a protected characteristic and those who do not.
- 3.10. Where any negative impacts have been identified, we have sought to mitigate and/or eliminate these. We are also mindful that the equality duty is not just about negating or mitigating negative impacts, as we also have a positive duty to promote equality. We have sought to do this through the provisions contained in the measures, or by support and guidance which is available.
- 3.11. As we continue to develop our approach to reporting, where possible, we will include or signpost to information on how rights and equality considerations have been taken into account, including the impact on those with protected characteristics. In this report, an example of this has been provided in relation to assessing the impact of the prisoner release measures on each of the protected characteristics as defined in equality legislation.
- 3.12. Analytical partners across the Scottish Government, National Records of Scotland, Public Health Scotland and the NHS are working together to consider how we can better understand the impact of coronavirus on those from all minority ethnic communities. This is one of multiple workstreams we are taking forward to address this issue.
- 3.13. This is an area of our reporting where our approach will continue to develop in response to how the powers in the legislation have been used, and the data collections which are available as part of ongoing monitoring and implementation.
- 3.14. While it is the view of the Scottish Government that any remaining impacts are currently justified and are a proportionate means of helping to achieve the legitimate aim of reducing the public health risks posed by coronavirus, the Scottish Government also recognises that these measures are only required to respond to the current set of circumstances, and are only necessary as long as the potential public health benefits can justify any negative impacts caused.
- 3.15. We have in this report included examples of how equality impacts have been or are being considered in relation to particular powers, including: the Impact Assessment for 'The closure and reopening of schools as part of the COVID-19 recovery process in Scotland'⁹ which was published on 30 July 2020; the Equality Impact Assessment (separate to the one completed at the Bill stages of the first Scottish Act) to assess the impact of the prisoner release measures on each of the protected characteristics as defined in equality legislation¹⁰; and the Equality Impact Assessments which have been carried out for the Health

⁹ Children's rights and wellbeing impact assessment: The closure and reopening of schools as part of the COVID-19 recovery process in Scotland - <https://www.gov.scot/publications/childrens-rights-wellbeing-impact-assessment-closure-reopening-schools-part-covid-19-recovery-process-scotland/>

¹⁰ Equality Impact Assessment- Release of Prisoners measures
<https://www.legislation.gov.uk/ssi/2020/138/resources>

Protection (Coronavirus) (Restrictions) (Scotland) Amendment Regulations from No.2 to most recently No.9¹¹.

- 3.16. We will keep our approach to reporting of impacts under review in line with legislation and in response to the views of the Scottish Parliament.

4. UK Government reporting and engagement

- 4.1. The UK Government published its first two-monthly report¹² on the status of the non-devolved provisions of the UK Act on 29 May 2020 and its second two-monthly report was published on 31 July 2020¹³.
- 4.2. We are continuing to engage and work with the UK Government and other Devolved Administrations on the implementation and operation of the UK Act and to help ensure respective reporting arrangements operate successfully and appropriately alongside each other, to support robust and effective scrutiny of the legislation.

5. Further reporting

Coronavirus related SSIs

- 5.1. Section 14 of the second Scottish Act requires Scottish Ministers to report on SSIs made by Scottish Ministers where the main purpose relates to coronavirus. This provision does not apply to SSIs made by Scottish Ministers under the first or second Scottish Acts or the UK Act. Information on SSIs, to which section 14 of the second Scottish Act applies, is included at [section eight](#) of this report.

Information about domestic abuse

- 5.2. Section 15A of the first Scottish Act and section 13 of the second Scottish Act require Scottish Ministers to take account of any information about the nature and number of incidents of domestic abuse occurring during the reporting period to which the review relates, given to them, or published by the Scottish Police Authority, or the Chief Constable of the Police Service of Scotland. Further, Scottish Ministers are required to explain in the report on that review, prepared under section 15 of the first Scottish Act and section 12 of the second Scottish Act, how the information was taken account of. The legislation does not require this information to be taken into account in the review of the powers under the UK Act, however we have made a decision to do so in order to ensure

¹¹ EQIA Health Protection Regulations Amendment No.9-
<https://www.legislation.gov.uk/ssi/2020/232/resources>

¹² Coronavirus Act report: May 2020 - <https://www.gov.uk/government/publications/coronavirus-act-report-may-2020>

¹³Two monthly report on the status on the non-devolved provisions of the Coronavirus Act 2020: July 2020 <https://www.gov.uk/government/publications/coronavirus-act-report-july-2020/two-monthly-report-on-the-status-on-the-non-devolved-provisions-of-the-coronavirus-act-2020-july-2020>

consistency in our approach and ensure the fullest possible consideration is given to this information.

- 5.3. We are committed to tackling all forms of gender based violence, including domestic abuse. During the coronavirus outbreak, we have maintained our priority that victims of domestic abuse and gender based violence get the support they need during these challenging times and are kept safe from harm.
- 5.4. In terms of our requirements under the legislation, consideration has been given to the provisions in the Scottish Acts and the UK Act where information about domestic abuse may be deemed relevant. The information from Police Scotland to support the review was published on 23 July 2020, as part of the Scottish Government Justice Analytical Services data report on how the coronavirus pandemic has affected the justice system.¹⁴
- 5.5. We are of the view that, where information on the nature and number of incidents of domestic abuse may be of relevance to a provision, this information has not impacted on the outcome of the assessment of whether the provisions remain necessary. However, the information has, in some circumstances, supported the continued need for the provision. For example:
 - The provisions in section 3, schedule 2 and Part 1 of the second Scottish Act on the expiry of undertakings under section 25(2)(a) of the Criminal Justice (Scotland) Act 2016 were identified as a key measure to preserve public and victim safety during the coronavirus outbreak, particularly in sensitive cases of domestic abuse. During the coronavirus outbreak a person may not be able to attend court in accordance with their undertaking due to public health guidance or infection. The provision provides the court with the power to prevent the expiry of an undertaking and any conditions attached to it. Without this provision, there is a risk that protective conditions attached to undertakings will expire in an increasing number of cases, raising safety concerns, particularly in domestic abuse cases. The information from Police Scotland on incidents of domestic abuse supports the continued importance of the provisions in order to preserve victim safety.
 - The provisions on the temporary registration of social workers under section 7 and schedule 6 of the UK Act aim to ensure that there are enough social workers to deal with all aspects of social work, which would include domestic abuse. To support Local Authorities, guidance was published by the Scottish Government and the Convention of Scottish Local Authorities (COSLA) on 19 May 2020¹⁵, which signposts to local resources, and assists decision-makers in identifying women and children at risk as well as the short, medium and long term steps they can

¹⁴ Justice Analytical Services Coronavirus (COVID-19) Data Report: June 2020 edition
<https://www.gov.scot/publications/justice-analytical-services-coronavirus-covid-19-data-report-june-2020-edition/>

¹⁵ Coronavirus (COVID-19) Supplementary National Violence Against Women Guidance -
https://www.cosla.gov.uk/data/assets/pdf_file/0023/17762/COVID-19-Supplementary-VAW-Guidance-FINAL.pdf

take to support their recovery and wellbeing. An increase in demand for all social work services is anticipated as we ease out of lockdown and the information from Police Scotland on incidents of domestic abuse supports the continued necessity of the temporary social work register during the emergency period.

- 5.6. All official advice and rules issued by the Scottish Government in relation to the 'lockdown restrictions' have maintained clear exemptions to enable anyone requiring to leave the home to escape or keep themselves safe from domestic abuse. To support this, guidance on domestic abuse accompanying the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 was published in May 2020 and subsequently revised in July 2020, following the move to phase three of the route map for moving through and out of the coronavirus crisis. The information which is referred to at section 5.4 above was considered in the review period. Due to the continued threat to public health which is posed by the virus, these provisions were considered to be necessary and proportionate. We will continue to consider the available information as required under the legislation, in future review periods.
- 5.7. Further to the requirement under the legislation, the specific circumstances of domestic abuse have required separate consideration on the operation and implementation of some of the provisions and this is included at section seven of this report.
- 5.8. In addition to the reporting requirements under the legislation, information about incidences of domestic abuse continues to be collected, monitored and regularly exchanged with statutory partners to inform our response to domestic abuse and ensure that decisions taken are effective and appropriate during the pandemic. Further to this, consideration is being given to the potential for data from other organisations to inform the evidence base on domestic abuse for the purposes of future reporting on the legislation.

Additional reporting requirements

- 5.9. Schedule 1, paragraph 24(3) of the second Scottish Act requires the Scottish Ministers to prepare a report on the steps taken during the reporting period to ensure that marriages and civil partnerships can take place during the emergency period, and the number of marriages solemnised and civil partnerships registered during the reporting period. This will be reported on separately and is not included within this report.
- 5.10. Schedule 4, paragraph 12 of the second Scottish Act requires the Scottish Ministers to lay a report before Parliament on their responses to requests for information under the Freedom of Information (Scotland) Act 2020. This will be reported on separately and is not included within this report.

6. Status update

- 6.1. Table One below provides detail on the status and operation of the provisions under Part 1 of the first and second Scottish Acts, and the provisions of the UK Act for which the Scottish Parliament gave legislative consent.
- 6.2. As outlined above, our reporting approach will ensure that the Parliament is given as much information as is available across all of the provisions in the relevant legislation, but with a particular emphasis on those provisions which have been identified as being likely to have the most significant impacts or interest. Where supplementary information has been provided, this is indicated within the 'description of provision' and 'operation of the provision in the reporting period' columns within Table One, and further information is provided at [section seven](#).

Table One – Status and operation of provisions

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
First Scottish Act	Section 2 and schedule 1 - Eviction from dwelling-houses	See section 7.1.1	In operation Supplementary information provided – see section 7.1.1 for further information	Commenced on 7 April 2020 but no delegated powers used No change to status since last reporting period
First Scottish Act	Section 3 and schedule 2 - Temporary extension of moratoriums on diligence	The provisions extend the period of any new moratoria to a period of six months, and removes the limitation that only one such moratorium can be applied for in any twelve month period.	In operation Extended moratorium is available for individuals to apply. As at 30 June 2020, 187 applications for moratoria had been made under the new powers.	Commenced and still in force No change to status since last reporting period
First Scottish Act	Section 4 and schedule 3 - Children and vulnerable adults – Part 1 – Children	See section 7.1.2	Child protection provisions – in operation Children’s hearings provisions – in operation Looked after children provisions - in operation Supplementary information provided – see section 7.1.2 for further information.	Commenced and still in force No change to status since last reporting period

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
First Scottish Act	Section 4 and schedule 3- Children and vulnerable adults – Part 2 – Vulnerable adults	See section 7.1.3	Section 11(1) – not in operation Sections 11(2) and 11(3) – in operation Supplementary information provided – see section 7.1.3 for further information.	Section 11(1) – not yet commenced Section 11(2) and 11(3) - commenced on 7 April 2020 but no delegated powers used No change to status since last reporting period
First Scottish Act	Section 5 and schedule 4, part 1 - Courts and tribunals: conduct of business by electronic means	<p>These provisions allow documents produced by a court or tribunal, or connected with criminal or civil proceedings, to be signed and transmitted electronically, removing the requirement for physical movement and contact. This enables documents to be sent, served and lodged by means of email or other electronic means.</p> <p>The provisions also provide that any participant in either criminal or civil proceedings (judge, clerk, legal representatives, parties to proceedings, accused, convicted persons, appellants and witnesses) can take part in any</p>	<p>In operation</p> <p>Remote hearings and electronic processes have increased across all areas of criminal and civil business. For civil, they are now the default position: evidential hearings for civil cases are underway; all documents in civil cases lodged electronically; all civil hearings in the Sheriff Appeal Court conducted remotely; lodging motions by email in the Sheriff Appeal Court; and from 13 July 2020 the All -Scotland Sheriff Personal Injury Court transitioned to a remote basis.</p> <p>Three criminal summary trials were held virtually in Aberdeen and Inverness in June 2020. The Sheriff Principal who produced the report evaluating these trials has</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		proceedings by way of live visual (television) or audio (telephone) link from any location.	<p>recommended that the aim should be for virtual trials to become the default determination in summary crime, both to enable the backlog of cases at all court levels to be meaningfully dealt with, and in the longer term after the recovery period.</p> <p>The Lord President has stated the use of written submissions, the digital transmission of documents and the use of electronic signatures have enabled swift process changes which are necessary to operate court services efficiently.</p>	
First Scottish Act	Section 5 and schedule 4, part 2 - Fiscal fines	The provisions enable a wider range of cases to be dealt with by fiscal fine and, thereby, mitigate the impact of coronavirus on the justice system.	<p>In operation</p> <p>The Lord Advocate has issued revised policy guidance to prosecutors in relation to fiscal fines which proceeds on the basis that the increase in fine amounts is intended to enable alternative action to be taken in a wider range of cases, where such action is assessed as appropriate, and not to increase the fine amount in individual cases which would previously have been dealt with by way of fiscal fine.</p> <p>Prosecutors are directed to first consider offering a direct measure, in particular a fiscal fine, in relation to appropriate cases</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
			<p>which would otherwise have proceeded in the Justice of the Peace court.</p> <p>The use of fiscal fines under this provision will be monitored by the Crown Office and Procurator Fiscal Service (COPFS). The monitoring will include the numbers of fiscal fines and their levels.</p> <p>Due to the statutory framework, and the timescales involved in administering and processing fiscal fines, the impact of the changed fiscal fine scale cannot be fully confirmed by the end of the second reporting period.</p>	
First Scottish Act	Section 5 and schedule 4, part 3 - Cases beginning with an appearance from custody	<p>The provisions introduce Scotland wide jurisdiction for sheriffs dealing with first appearances from police custody. This enables custody proceedings to be heard in any sheriff court in Scotland by a sheriff of any sheriffdom, no matter where the alleged offence took place. The provision also enables the court to hear any continuation of a case, up until a not guilty plea is tendered, if that occurs.</p>	<p>In operation</p> <p>The provisions have continued to allow Police Scotland to operate its contingency plan to address the coronavirus outbreak by moving to a smaller number of more centralised custody suites across Scotland.</p> <p>This enables custody proceedings to be heard in any sheriff court in Scotland by a sheriff of any sheriffdom, no matter where the alleged offence took place.</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
			<p>The provision creates the necessary flexibility to ensure the continued safe and effective operation of custody courts during the coronavirus outbreak while public health guidance remains in place and allows the court to deal with guilty pleas and move them out of the court system, and in doing so, minimise the number of cases that have to be transferred to local court.</p>	
First Scottish Act	Section 5 and schedule 4, part 4 - Extension of time limits	See section 7.1.4	<p>In operation</p> <p>Supplementary information provided – see section 7.1.4 for further information.</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>
First Scottish Act	Section 5 and schedule 4, part 5 - Evidence	<p>The provisions allow evidence by statement where a witness is unable to attend court because their attendance at court presents a health risk connected to coronavirus.</p>	<p>In operation</p> <p>However, given that there have been only a very small number of jury trials (they only re-commenced in mid-July) and a significantly reduced amount of summary court business, it is likely that it has been used only to a very limited extent.</p> <p>It is likely that there will be a greater need for this provision as and when solemn court business re-commences. The provisions are intended to ensure that the inability of witnesses to give evidence in court because, for example, they are self-isolating</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
			due to coronavirus, does not unnecessarily prevent criminal trials from proceeding. As such, it is likely to continue to be necessary for as long as public health guidelines around self-isolation and coronavirus remain in effect.	
First Scottish Act	Section 5 and schedule 4, part 6 - Community orders	<p>The provisions extend time limits for unpaid work in Community Payback Orders by 12 months, and require similar time limits to be imposed in any new orders made.</p> <p>The provisions introduce regulation-making powers for the Scottish Ministers to postpone, vary, or revoke requirements in Community Payback Orders (CPOs) or Drug Treatment and Testing Orders.</p>	<p>Schedule 4, paragraphs 12 and 13 - extension of time limits for unpaid work and requirements around time limits for new orders – in operation</p> <p>Schedule 4, paragraphs 14 and 15 - powers to postpone, vary, or revoke requirements in CPOs or Drug Treatment and Testing Orders, which need to be made under the affirmative procedure – not in operation</p> <p>With restrictions now being eased and court business gradually restarting, Social Work Scotland (SWS) has expressed significant concerns about the deliverability of outstanding unpaid work (UPW), primarily due to reduced capacity as a result of physical distancing measures. As a result, consideration is now rapidly being given to whether the regulation-making powers to vary community orders may need to be used to reduce the overall volume of outstanding unpaid work hours in CPOs.</p>	<p>Commenced on 7 April 2020 but no delegated powers used</p> <p>No change to status since last reporting period</p>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
			Whilst regulations are currently being considered and proposals are being discussed with stakeholders, when making decisions on using these provisions, equality and human rights implications will be considered.	
First Scottish Act	Section 5 and schedule 4, part 7 - Parole Board	The provisions allow parole hearings to continue and avoid postponements. They also provide the power for the Chair of the Parole Board to delegate their functions to another member of the Parole Board, should they become incapacitated for any reason.	<p>In operation</p> <p>Parole hearings and casework meetings have been continuing, and during the period 23 March to 10 July 2020:</p> <ul style="list-style-type: none"> • 632* cases were considered at casework meetings by Skype and/or email; • 370 (of 373) Tribunal and oral hearings were successfully conducted by teleconference; • 271 witnesses provided oral evidence remotely at hearings; and • 96 legal firms represented their clients remotely at hearings. <p>*This figure was previously underreported in the first two-monthly report, as it did not include those cases considered at recall and re-release meetings.</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
First Scottish Act	Section 5 and schedule 4, part 8 - Release of prisoners	See section 7.1.5	In operation Supplementary information provided – see section 7.1.5 for further information.	Commenced and still in force No change to status since last reporting period
First Scottish Act	Section 5 and schedule 4, part 9 - Legal Aid	The provisions allow for a reduction of the level of scrutiny required before interim payment may be made, enhanced powers of recovery in the event of overpayments resulting from interim payments, and removal of conditions for counsel to be able to apply for interim payment.	In operation Delegated powers have been used in this reporting period. The Legal Aid and Advice and Assistance (Miscellaneous Amendments) (Coronavirus) (Scotland) Regulations 2020 ¹⁶ , partially commenced on 1 July 2020 to further support these provisions. With provisions in place as of 1 July 2020, increased use of the interim payment provisions has been possible from that date. The legal profession has welcomed these arrangements, and the Scottish Government will continue to develop the monitoring and reporting mechanisms regarding the operation of the provisions.	Commenced and still in force Status in first reporting period – commenced on 7 April 2020 but no delegated powers used
First Scottish Act	Section 6 and schedule 5 – Alcohol licensing and	The Licensing (Scotland) Act 2005 and the Civic Government (Scotland) Act 1982 and associated statutory instruments	In operation Licensing Boards and licensing authorities are responsible for the day to day	Commenced and still in force

¹⁶The Legal Aid and Advice and Assistance (Miscellaneous Amendments) (Coronavirus) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/sdsi/2020/9780111045510>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
	section 7 and schedule 6, Part 1 - Licensing other than alcohol licensing	provide the legislative framework to support licensing of activities such as the sale and supply of alcohol and taxi and private car hire. The legislative framework contains strict timescales and deadlines with little or no flexibility available to the relevant authorities. Without legislative change, the impact of the coronavirus would result in people losing their licences through no fault of their own.	administration of the civil licensing regimes in Scotland. Information on the operation of the civil licensing regimes and how these powers under the first Scottish Act have been used is not held centrally. Examples of licensing authorities making use of the provisions include holding virtual licence meetings to progress day to day licensing business due to the coronavirus outbreak and physical distancing requirements. The provisions require to remain in place to enable the licensing regime to function effectively and to ensure, as far as practicable, people do not lose licenses through no fault of their own.	No change to status since last reporting period
First Scottish Act	Section 7 and schedule 6, part 2 – Freedom of Information (FOI)	See section 7.1.6	Section 7, schedule 6, part 2, paragraph 6 - in operation, but has not yet been exercised Section 7, schedule 6, part 2, paragraph 7 – in operation Supplementary information provided – see section 7.1.6 for further information.	Commenced and still in force No change to status since last reporting period
First Scottish Act	Section 7 and schedule 6, part 3 - Duties in respect of reports and	The provision allows statutory reporting requirements to be postponed, and documents to be made available online instead of being made physically available.	In operation These are generic provisions that apply to reporting and publication requirements across the public sector. The suspension of physical publication requirements is in use,	Commenced and still in force No change to status since last reporting period

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
	other documents		since it is not currently possible to provide physical access to documents in all circumstances. The power to postpone reporting should only be used as necessary to enable public authorities to focus on the coronavirus response. Given the aim of reducing undue burdens, it would be disproportionate to request authorities to report on the individual uses of these powers, however the provision continues to be necessary for the reasons set out above.	
First Scottish Act	Section 7 and schedule 6, part 4 - Local Authority meetings	The provisions allow Local Authorities to exclude the public from Local Authority meetings on public health grounds.	In operation The majority of Local Authority meetings have been cancelled and temporary decision making arrangements implemented. Meetings which are still being held are being conducted remotely. It is the responsibility of Local Authorities to determine for themselves the governance arrangements they put in place and the Scottish Government has no locus in this decision. However, in the interests of openness, democracy and transparency, the Scottish Government expects and has encouraged Local Authorities to make every effort to reintroduce decision-making structures using technology which also	Commenced and still in force No change to status since last reporting period

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
			<p>enables the public to view the proceedings online where appropriate.</p> <p>It would be overly burdensome to request Local Authorities to report on the individual uses of this power when they are at the core of the coronavirus response and many of their services are under significant pressure. Therefore, there is no central picture of the extent of the use of the provisions at this time. However, the Scottish Government is exploring with COSLA and the Improvement Service the possibility of gathering information regarding the extent of use of these powers. At this stage, it is expected that these provisions will need to continue until council offices can reopen to the public and/or other relevant aspects of Local Authority business resumes.</p>	
First Scottish Act	Section 7 and schedule 6, and part 5 - Duties under the Public Finance and Accountability (Scotland) Act 2000	The provisions allow Scottish Ministers, by further regulation, to amend the statutory reporting deadlines of Scottish administration annual accounts.	<p>Not in operation</p> <p>The provisions allow for amendment of the statutory deadlines for annual accounts as set by the Public Finance and Accountability (Scotland) Act 2000. The deadlines for such accounts is 31 December 2020 this year, and 31 December 2021 next year.</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
			Although the powers under schedule 6 part 5 do not currently require to be used, the provisions remain necessary overall as a contingency to ensure if there were a resurgence of the virus, for example, resulting in staff absences, that they could be used if required at that time. It is proportionate and appropriate that this provision remains commenced and still in force, although not operational in this reporting period.	
First Scottish Act	Section 8 and schedule 7, paragraphs 1 to 5 - Social security	See section 7.1.7	In operation Supplementary information provided – see section 7.1.7 for further information.	Commenced and still in force No change to status since last reporting period
First Scottish Act	Section 8 and schedule 7, paragraphs 6 and 7 - Irritancy clauses in commercial leases: non-payment of rent or other sums due	The provision allows for the statutory period for non-eviction of commercial tenants for non-payment of rent to be extended from 14 days to 14 weeks.	The measure came into force 7 April 2020 and as such, the first date an eviction could take place was 14 July 2020. These provisions are to give the parties to a commercial lease sufficient time to come to an agreement as to any restructuring of the lease in the light of the effect of coronavirus. On 19 June 2020, the Ministry of Housing, Communities and Local Government (MHCLG) issued a UK-wide Code of Practice which provides guidance on a voluntary basis as to relationships between	Commenced and still in force No change to status since last reporting period

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
			landlords and tenants. Since this date, this provision has worked in conjunction with the UK-wide Code of Practice.	
First Scottish Act	Section 8 and schedule 7, paragraphs 8 to 10 - Duration of planning permission	The provision provides that if planning permission or planning permission in principle was to lapse during the emergency period, then the period within which development is to be commenced is extended.	In operation Given the aim of reducing undue burdens, it would be disproportionate to request authorities or applicants to report on the individual uses of these powers. Although construction sites are permitted to reopen, that has happened recently and it may take some time to become fully operational, including dealing with any backlog of developments. The Scottish Government will continue to liaise with stakeholders as part of the ongoing review of the operation and continued necessity of these provisions.	Commenced and still in force No change to status since last reporting period
First Scottish Act	Section 8 and schedule 7, paragraphs 11 to 19 – Land Registration	The provisions enable the digital submission of applications to the property registers and extend the period of protection provided by advance notices.	In operation The portal for the submission of digital applications was opened for public use in April 2020 and is operating successfully. The Keeper of the Registers of Scotland has written to the Economy Energy and Fair Work Committee regarding volumes. The Keeper has agreed to consult with the Law Society of Scotland prior to declaring the property registers fully reopen, which in turn	Commenced and still in force No change to status since last reporting period

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
			will end the extended protection for advance notices.	
First Scottish Act	Section 8 and schedule 7, paragraphs 20 to 22 - Anatomy Act	The provision extends the three year statutory time limit under the Anatomy Act 1984 for the retention of bodies after anatomical examination has concluded to that of the life of the emergency legislation. This ensures that during this pandemic, licence holders are not committing an offence by retaining a body beyond the statutory three years.	In operation As per the position in the first reporting period, anatomy schools continue to suspend their activities during the pandemic.	Commenced and still in force No change to status since last reporting period
First Scottish Act	Section 8 and schedule 7, paragraphs 23 to 30 - Scrutiny of subordinate legislation in urgent cases	Paragraphs 23 to 30 of schedule 7 allow subordinate legislation which is subject to the affirmative procedure to be instead made under a made affirmative procedure where necessary by reason of urgency.	Not in operation The provisions have not required to be used in the reporting period. The provisions are appropriate and proportionate in the current circumstances to provide the Scottish Government and Parliament with the flexibility needed for any unexpected change in circumstances that may still arise due to the pandemic. The provisions would only be exercised when necessary.	Commenced and still in force No change to status since last reporting period
First Scottish Act	Section 8 and schedule 7, paragraph 31 – Business	The provision extends the duration of Business Improvement Districts (BIDs) that are due to end in the coming months or have	In operation	Commenced and still in force

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
	Improvement Districts	recently ended, without the legal requirement to hold a ballot.		No change to status since last reporting period
First Scottish Act	Section 8 and schedule 7, paragraphs 32 and 33 - Muirburn	The provisions ended the current muirburn (management of moorland by burning and cutting) season early and they suspend muirburn for the period in which the provisions are in force. In ordinary circumstances, muirburn season runs from 1 October to 15 April inclusive in Scotland.	In operation The powers commenced on 7 April 2020, resulting in the muirburn season ending earlier than the scheduled date of 15 April 2020. The provision continues to be necessary in order that the situation can be reviewed in autumn, including whether there remains a risk of muirburn placing unnecessary pressure on the emergency services, prior to the commencement of the next muirburn season.	Commenced and still in force No change to status since last reporting period
Second Scottish Act	Section 2, schedule 1, Part 1 - Student residential tenancy: termination by tenant	See section 7.2.1	In operation Supplementary information provided – see section 7.2.1 for further information.	Commenced and still in force
Second Scottish Act	Section 2, schedule 1, Part 2 - Tenancies: pre-action requirements for order for	See section 7.2.2	In operation Supplementary information provided – see section 7.2.2 for further information.	Commenced and still in force

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
	possession or eviction order on ground of rent arrears			
Second Scottish Act	Section 2, schedule 1, Part 3- Coronavirus Carer's Allowance Supplement	Paragraph 6 amends section 81 of the Social Security (Scotland) Act 2018. This has the effect of adding an additional £230.10 to awards of Carer's Allowance Supplement for the period from 1 April 2020 to 30 September 2020.	In operation While this is a one off payment made to the majority of recipients in June 2020, some backdated payments will be made in December 2020 to people with backdated claims of Carer's Allowance, which is the qualifying benefit for the Coronavirus Supplement.	Commenced and still in force
Second Scottish Act	Section 2, schedule 1, Part 4 - Social Care Staff Support Fund	Paragraph 7 makes provision to require the Scottish Ministers to establish a Social Care Staff Support Fund as soon as is practicable when the second Scottish Act came into force. Paragraph 7(2) sets out what the fund is to be used for. The Scottish Ministers must use the fund to provide financial assistance to workers in the social care sector who have a restricted ability to work due to coronavirus and, as a result of that, have a	In operation The Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020 ¹⁷ commenced on 24 June 2020. These regulations were made in exercise of the powers conferred by sections 2 and 7, and paragraph 7(3) of schedule 1, of the second Scottish Act.	Commenced and still in force

¹⁷ The Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/188/made>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		<p>reduced income and consequently are experiencing, or would experience, financial hardship while the second Scottish Act is in force. Paragraphs 7(3) to 7(7) require the Scottish Ministers to make further provision by regulations about the establishment, maintenance and administration of the fund.</p>		
Second Scottish Act	Section 2, schedule 1, Part 5 – Bankruptcy	<p>The provisions protect those in unsustainable debt by making bankruptcy more accessible, they provide that:</p> <p>the Minimal Asset Process (MAP) fee is reduced to £50; no fee will be payable in MAP cases for those receiving certain benefits, including when those benefits are not the applicant's sole income; the maximum debt level for MAP is increased to £25,000, and student loan debt is removed from that calculation; the Full Administration Fee is reduced to £150; no fee will be payable in Full Administration cases for those receiving certain benefits,</p>	<p>In operation</p> <p>In the period between 27 May and 13 July 2020, there were 242 new applications for bankruptcy which benefitted from the reduced application fee – 166 of which paid no application fee at all.</p>	Commenced and still in force

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		including when those benefits are not the applicant's sole income; and the minimum debt level for creditor petitions is increased to £10,000. All bankruptcy-related forms and circulars may be sent electronically.		
Second Scottish Act	Section 2, schedule 1, Part 6 – Mental health: named person nomination	<p>The second Scottish Act temporarily removes the requirement for a nominated person to have their signature witnessed by a prescribed person when they agree to become a named person.</p> <p>This change applies to section 250(2A) of the Mental Health (Care and Treatment)(Scotland) Act 2003 and only affects the process for the proposed named person (nominee). There are no changes to the process for the patient (nominator).</p>	<p>In operation</p> <p>The purpose of a named person is one of safeguarding which not only allows for the patient to be represented, it also helps the patient exercise their rights. This temporary amendment was introduced in order to reduce delays in securing the validity of named persons nominations and therefore reduces any disruption for the Mental Health Tribunal Scotland (MHTS) which is responsible for determining whether a person should be detained. All patient safeguards have remained as there are no changes to the process for the patient.</p>	Commenced and still in force
Second Scottish Act	Section 2, schedule 1, Part 7 – Care Homes	See section 7.2.3	Powers in respect of section 65B of the Public Service Reform (Scotland) Act 2010 (as inserted by paragraph 17 of schedule 1 of the second Scottish Act) to make regulations providing further detail in	Commenced and still in force

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
			<p>relation to Emergency Intervention Orders – in operation</p> <p>Other powers under these provisions – not in operation</p> <p>Supplementary information provided – see section 7.2.3 for further information.</p>	
Second Scottish Act	Section 2, schedule 1, Part 8 - Powers to purchase care home services and care at home providers	See section 7.2.4	<p>Not in operation</p> <p>Supplementary information provided – see section 7.2.4 for further information.</p>	Commenced and still in force
Second Scottish Act	Section 2, schedule 1, Part 9 - Care homes: further provisions	See section 7.2.5	<p>In operation</p> <p>Supplementary information provided – see section 7.2.5 for further information.</p>	Commenced and still in force
Second Scottish Act	Section 2, schedule 1, Part 10 – Marriage and civil partnership	See section 7.2.6	<p>In operation</p> <p>Supplementary information provided – see section 7.2.6 for further information.</p>	Commenced and still in force

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Second Scottish Act	Section 3, schedule 2, Part 1 – Criminal justice - Criminal proceedings: extension of time limits	Paragraph 1 of schedule 2 makes provision to extend certain statutory time limits contained in the Criminal Procedure (Scotland) Act 1995 relating to criminal proceedings.	In operation Delays in progressing criminal cases as a result of the impact of coronavirus on the court system (in particular, jury trials) continued to remain a significant issue in this period and this provision ensured that there did not need to be a large number of individual hearings to extend time limits on a case-by-case basis, placing further pressure on the courts at a time when their capacity is limited.	Commenced and still in force
Second Scottish Act	Section 3, schedule 2 and Part 1 Criminal justice - Arrangements for the custody of persons detained at police stations	The provisions under paragraph 2 of schedule 2 allow Scottish Ministers to make arrangements for the transfer and custody of prisoners in police stations in connection with appearances before the court by electronic means, and administrative functions connected with such appearances, to be performed by Prisoner Custody Officers.	In operation Prisoner Custody Officers were supporting Police Scotland in 5 custody centres, out of a total of 11 across Scotland. The intention is that the use of these officers will be extended during the period that the provision is in force to support an increase in virtual custody hearings as the default procedure.	Commenced and still in force
Second Scottish Act	Section 3, schedule 2, Part 1 Criminal justice - Expiry of undertaking under section	Paragraph 6 of schedule 2 makes provision which enables the court to prevent the expiry of an undertaking given under section 25(2)(a) of the Criminal Justice (Scotland) Act 2016 by changing	In operation This provision provides the court with the power to prevent the expiry of an undertaking and any conditions attached to it by changing the time the person is due to	Commenced and still in force

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
	25(2)(a) of the Criminal Justice (Scotland) Act 2016	the time at which the person who gave it is to appear at court when certain conditions are met.	appear at court. This has been identified as a key measure to preserve public and victim safety during the coronavirus outbreak, particularly in sensitive cases of domestic abuse.	
Second Scottish Act	Section 3, schedule 2, Part 1 - Criminal justice – Fixed Penalty Notices under the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020	See section 7.2.7	In operation Supplementary information provided – see section 7.2.7 for further information.	Commenced and still in force
Second Scottish Act	Section 3, schedule 2, Part 2 – Proceeds of Crime	Paragraph 8 inserts a new subsection (4A) in section 99 (confiscation orders: postponement) of the Proceeds of Crime Act 2002 ('the 2002 Act'). Subsection (4A) specifies that, for the purposes of section 99(4) of the 2002 Act, "exceptional circumstances" includes the effect	In operation The disruption to usual court business is expected to continue and these provisions will help to ensure that the confiscation process is not frustrated due to these delays. The provisions also ensure that individuals are not treated unfairly or disproportionately throughout this period if	Commenced and still in force

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		<p>(whether direct or indirect) of coronavirus on the proceedings.</p> <p>Paragraph 9 inserts section 116A to the 2002 Act and makes provision for an accused to make application to the court for a further extension of the time to pay a confiscation order where the court accepts that an accused's inability to pay has been affected (whether directly or indirectly) as a result of coronavirus, and dis-applies the payment of interest on the outstanding amount as set out at section 117 of the 2002 Act.</p>	they have been unable to pay a confiscation order for reasons related to coronavirus.	
Second Scottish Act	Section 3, schedule 2, Part 3 – Intimation, etc. of documents	Where there is provision requiring or permitting a document to be displayed on the walls (or any other part) of a court building, or to be made publicly available within a court, that is instead to be done by publication of the document on the Scottish Courts and Tribunals Service (SCTS)	In operation The disruption to usual court access and business is expected to continue and these provisions help to ensure that documents continue to be made publically available as required by statute where general public access to courts continues to be restricted. A direction ¹⁸ under paragraph 1A(2) of	Commenced and still in force

¹⁸ Coronavirus (Scotland) Act 2020, Lord President's Direction, No. 2 of 2020 - [https://scotcourts.gov.uk/docs/default-source/rules-and-practice/coronavirus-temp-orders/lord-president/coronavirus-\(scotland\)-act-2020-lord-president-s-direction-no-2-of-2020.pdf?sfvrsn=2](https://scotcourts.gov.uk/docs/default-source/rules-and-practice/coronavirus-temp-orders/lord-president/coronavirus-(scotland)-act-2020-lord-president-s-direction-no-2-of-2020.pdf?sfvrsn=2)

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		website. Paragraph 1A (2) and 1A(3) provides direction making powers for the Lord President - providing latitude for the courts to adjust the operation of the new rule as necessary. This could allow, for example, redaction of sensitive information to account for any issues arising from the potential publication of sensitive data on the SCTS website.	schedule 4 and a under paragraph 1A (3)(a) of the Act was made by the Lord President on 9 June 2020.	
Second Scottish Act	Section 4, schedule 3, Part 1 – Reports, etc. under the Climate Change (Scotland) Act 2009	Paragraph 1 of schedule 3 amends the Climate Change (Scotland) Act 2009 in relation to the dates by which; i) a Citizens Assembly on climate change is required to have completed its deliberations and reported to the Scottish Ministers and Scottish Parliament (such that if the Assembly is unable, for a reason relating to coronavirus, to report by 28 February 2021 then it must do so as soon as reasonably practicable after that date), and ii) the Scottish Ministers are required to have established – via regulations - a national Nitrogen Balance Sheet (the deadline is	Preparations for Scotland’s Climate Assembly are ongoing. Ministers will provide further updates to the Scottish Parliament on arrangements for the Assembly before the time of its first meeting. The provision to allow for a delay to the deliberations and reporting of the Assembly beyond February 2021, should this be necessary for reasons related to coronavirus, will apply to all persons irrespective of protected characteristics. As such, there may be positive equalities benefits for some groups as delay could allow the participation of individuals that might otherwise be excluded due to coronavirus restrictions. Work within the Scottish Government on a project to establish a national Nitrogen Balance Sheet	Commenced and still in force

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		changed to 24 months after the relevant section of the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 came into force, which in practice means by 23 March 2022).	has begun, but it is not yet possible to set out an exact date by which it expects the process of regulating to establish a Balance Sheet to have concluded. A formal screening exercise for an Equality Impact Assessment will be undertaken in due course.	
Second Scottish Act	Section 4, schedule 3, Part 2 – Accounts of registered social landlords	Paragraph 2 of schedule 3 amends section 70 of the Housing (Scotland) Act 2010. It dis-applies the duty, in respect of the financial year ending 31 March 2020, for Registered Social Landlords to submit audited annual accounts to the Scottish Housing Regulator within six months of the end of the period to which they relate. Instead, they must be provided within nine months of the end of the period to which they relate.	In operation This provides a permanent amendment to the Housing (Scotland) Act 2010. This only applies to the financial year as it ended on 31 March 2020.	Commenced and still in force
Second Scottish Act	Section 4, schedule 3, Part 3 – Accounts under the Public Finance and Accountability	Amendment to the first Scottish Act to reflect the periods most likely to be affected by the coronavirus outbreak (i.e. financial years 2019/20 and 2020/2021), as part of the response to the accounting timetable disruption caused by the outbreak.	In operation The provisions amend the related provisions under the first Scottish Act to reflect the periods most likely to be affected by the coronavirus outbreak. The regulation making powers have not been used since this provision came into force.	Commenced and still in force

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
	(Scotland) Act 2000	The provision allows by further regulation amendments to paragraph 15(1) of schedule 6 of the Public Finance and Accountability (Scotland) Act 2000 as it applies to accounts that are required under section 19 or 20 of that Act.		
Second Scottish Act	Section 4, schedule 3, Part 4 - Housing (Scotland) Act 1987: statement under section 33B	Paragraph 4 of schedule 3 amended section 33B(1) of the Housing (Scotland) Act 1987 ('the 1987 Act') to extend, by six months, the deadline for the Scottish Ministers to publish a statement on the circumstances and criteria for exercising their power, in section 33A of the 1987 Act to modify referrals between Scottish Local Authorities on the grounds of local connection. The deadline is now 18 months (by 7 May 2021) rather than 12 months after the coming into force of section 33B(1) (on 7 November 2019.) The provision also gives the Scottish Ministers the power to make regulations to further extend the period by up to an additional six months (by 7	<p>In operation</p> <p>The provisions under paragraph 4 of schedule 3 are in operation and the deadline to publish the Local Connection Ministerial Statement is extended by six months. The opportunity was taken to postpone launching the required consultation on the statement until 3 August 2020 (from May 2020) to allow Local Authorities and third sector frontline services to focus effort on accommodating and supporting people, and preventing further homelessness, during the coronavirus outbreak.</p> <p>The regulation making powers have not been used since the provisions came into force.</p>	Commenced and still in force

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		November 2021), on a one-off basis, should this be necessary.		
Second Scottish Act	Section 5, schedule 4, Part 1 - UEFA European Championship	Part 1 of schedule 4 modifies the UEFA European Championship (Scotland) Act 2020.	In operation Section 3 of the UEFA European Championship (Scotland) Act 2020 (the '2020 Act'), as amended by the provision, came into force on 10 July 2020, along with sections 2 and 4 of the 2020 Act, by virtue of the UEFA European Championship (Scotland) Act 2020 (Commencement No. 2) Regulations 2020 ¹⁹ (SSI 2020/189). Sections 2, 3 and 4 of the 2020 Act create a ticket touting offence in relation to Euro 2020 tickets, with certain exceptions.	Commenced and still in force
Second Scottish Act	Section 5, schedule 4, Part 2 - Listed buildings and conservation areas: consents	Paragraph 2 amends section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the '1997 Act') to extend the duration of a listed building consent or a conservation area consent that would otherwise lapse during the emergency period because works authorised by the consent have not begun. The emergency period is the period beginning with the	In operation It would be disproportionate to request planning authorities to report to the Scottish Government whenever this provision has been employed, however the provision continues to be necessary. Although construction sites are allowed to reopen, this has only happened recently and it may take some time to address any backlog of developments. The Scottish Government will continue to liaise with stakeholders to	Commenced and still in force

¹⁹ The UEFA European Championship (Scotland) Act 2020 (Commencement No. 2) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/189/made>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		<p>coming into force of these provisions and ending on 6 October 2020. The changes made to section 16 apply to conservation area consent by virtue of section 66(3) of the 1997 Act. Consents to which the provision applies will instead lapse at the end of an extended period (which ends on 6 April 2021) unless works have commenced before the end of the extended period. It enables the Scottish Ministers to make regulations to amend the definition of the emergency and extended periods.</p>	<p>determine the necessity and appropriateness of retaining the provision</p>	
Second Scottish Act	Section 5, schedule 4, Part 3 - Registers kept by the Keeper of the Registers of Scotland	<p>Paragraph 3 makes provision for registration or recording in the Register of Inhibitions to proceed on the basis of electronic submission of documents and copies of documents to the Keeper of the Registers. Paragraph 4 makes provision for registration in the Register of Judgments and the issuing of documents to proceed on the basis of electronic submission to</p>	<p>In operation</p> <p>Following commencement on 27 May 2020, Registers of Scotland worked with users on incorporating access to the Register of Inhibitions and the Register of Judgments to the portal for the submission of digital applications originally opened for access to the property registers.</p> <p>The portal for the submission of digital applications was widened to include access</p>	Commenced and still in force

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		and by the Keeper of the Registers of documents and copies of documents.	to the Register of Inhibitions and Register of Judgments in early June and is operating successfully. The Keeper of the Registers of Scotland will continue to update Parliament via the Economy Energy and Fair Work Committee about volumes and ongoing operation.	
Second Scottish Act	Section 5, schedule 4, Part 4 - Care services: giving of notices by the Care Inspectorate	See section 7.2.8	In operation Supplementary information provided – see section 7.2.8 for further information.	Commenced and still in force
Second Scottish Act	Section 5, schedule 4, Part 5 - Land and Buildings Transaction Tax: additional amount	The second Scottish Act extends to 36 months, for certain transactions, the period within which a previous main residence can be sold and a repayment of the Land and Buildings Transaction Tax (LBTT) Additional Dwelling Supplement (ADS) claimed. It provides a power for the Scottish Ministers to amend, by order, the period of 36 months or the period of transactions to which the Act applies, where the Scottish Ministers are satisfied	In operation Order making powers have not been used.	Commenced and still in force

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		that this is appropriate for a reason related to coronavirus.		
Second Scottish Act	Section 5, schedule 4, Part 6 – Non-Domestic Rates relief	<p>Paragraph 7 amends section 153 of the Local Government etc. (Scotland) Act 1994 to allow the Scottish Ministers, during the financial year 2020/21, to make regulations prescribing rules that reduce or remit the amount payable as non-domestic rate. Those rules may reduce or remit the amount either for the whole of that year (including the period prior to the regulations being made), or for such period within that year as is specified in the regulations (including a period beginning prior to the regulations being made).</p> <p>Paragraph 8 provides that no Non-Domestic Rates are payable in respect of premises used wholly or mainly for production of newspapers and related news platforms. This relief applies on a daily basis, from the day after Royal Assent to the Act. The</p>	<p>In operation</p> <p>The power was used to make the Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Amendment Regulations 2020 (SSI 2020/230)²⁰ on 27 July 2020. This provides 100% relief from rates for soft play centres, amusement arcades and amusement centres for the whole of the 2020/21 financial year.</p> <p>100% non-domestic rate relief for newspapers offices came into force on 27 May 2020.</p>	Commenced and still in force

²⁰ The Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Amendment Regulations - <https://www.legislation.gov.uk/ssi/2020/230/introduction/made>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		regulations that are amended provide for such relief to continue until and including 31 March 2021.		
Second Scottish Act	Section 5, schedule 4, Part 7 - Execution of documents, etc.	Paragraph 9 of schedule 4 removes the requirement for the physical presence of Scottish notaries public, solicitors and advocates in specific circumstances where an oath, affirmation or declaration is made, or where a document is executed, thus allowing for other methods for the duration of the operation of the second Scottish Act.	In operation The Law Society of Scotland has issued guidance on the execution of documents etc. by notaries public in reliance on these provisions.	Commenced and still in force
Second Scottish Act	Section 5, schedule 4, Part 8 – Freedom of information	Paragraph 12 requires the Scottish Ministers to lay reports before Parliament every two months on their responses to Freedom of Information (FOI) requests during the period that part 2 of schedule 6 of the first Scottish Act is in force. Paragraph 12(2) sets out the information to be included in each report.	In operation Paragraph 12 is in operation and the Scottish Ministers are finalising the first report to Parliament on their responses to FOI requests during the period that Part 2 of schedule 6 of the first Scottish Act is in force. It is anticipated that it will be laid before Parliament in August.	Commenced and still in force
Second Scottish Act	Section 5, schedule 4, Part 9 - Low emission zones	Paragraph 13 places a requirement on the Scottish Ministers to lay a report before the Scottish Parliament by 4 December 2020 on progress	In operation	Commenced and still in force

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		towards establishing low emission zones under Part 2 of the Transport (Scotland) Act 2019.		
Second Scottish Act	Section 5, schedule 4, Part 10 - Council tax: exempt dwellings	Paragraph 14 creates an exemption from paying Council Tax for those properties that were occupied by one of the groups of individuals listed at paragraphs 10 and 12 of schedule 1 of the Council Tax (Exempt Dwellings) (Scotland) Order 1997, and which are unoccupied on or after 17 March 2020 for a reason relating to coronavirus. This exemption applies until the property is occupied or the second Scottish Act ceases to be in force.	In operation Currently, there is no central picture of the extent of use, nor are there plans at this time to collate information of this nature. The provision is proportionate and the status at this time of commenced and still in force is appropriate.	Commenced and still in force
Second Scottish Act	Section 5, schedule 4, Part 11 - Traffic Regulation	Paragraph 15 of schedule 4 has the effect of extending the maximum duration of Temporary Traffic Regulation Orders (TTROs) made under section 14 of the Road Traffic Act 1984 (the '1984 Act') which can restrict or prohibit the use of certain types of roads, from 6 months to 18 months. Those roads are existing footpath, bridleway, cycle track or byway open to all vehicles. The	In operation It would be disproportionate to request traffic authorities to report on the individual uses of this power and therefore information on the extent of use of the provision is not held at this time. The traffic authorities this provision will be most relevant to are Local Authorities who are at the core of the coronavirus response and many of their services are under significant pressure. Local Authorities continue to indicate that	Commenced and still in force

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		<p>maximum duration of TTROs on all other roads is unchanged and remains 18 months (see section 15(1)(b) of the 1984 Act). It also substitutes a reference to the 6 month time limit with a reference to 18 months in section 15(3) of the 1984 Act which deals with the power of the national authority (the Scottish Ministers) to direct that a TTRO may continue in force for a further period.</p>	<p>they need flexibility in their options for regulating the use of the various types of roads in their areas due to the ongoing need for physical distancing and increased active travel. For this reason, the status of the provision in this reporting period is appropriate and proportionate.</p>	
Second Scottish Act	Section 5, schedule 4, Part 12 - Restriction on giving grant to businesses connected to tax havens	<p>Schedule 4, part 12 introduces new conditions in relation to tax havens that must be met before the Scottish Ministers, or any public body administering grants on their behalf, may make a coronavirus-related grant to a company. The Scottish Ministers are required to take steps to satisfy themselves that the conditions are met. A coronavirus-related grant may not be made if the conditions are not met and if, after a grant has been made, it is established that the conditions were not in fact met, the grant will be immediately repayable by the</p>	<p>In operation</p> <p>'Key principles' guidance has been developed for stakeholders and early scoping conversations have been held to support implementation.</p> <p>The Scottish Government has carried out work with stakeholders to understand implementation needs and detailed guidance is being developed for publication in due course.</p>	Commenced and still in force

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		grantee. The conditions that must be met are that the grantee company must not be based in a tax haven, the subsidiary of a company based in a tax haven, the parent company of a subsidiary based in a tax haven nor party to an arrangement under which any of its profits are subject to the tax regime of a tax haven.		
UK Act	Section 2 - Emergency registration of nurses and other healthcare professionals	Section 2 introduces schedule 1 which modifies the Nursing and Midwifery Order 2001, and the Health Professions Order 2001, to permit the independent statutory regulators, the Nursing and Midwifery Council (NMC) and the Health and Care professions Council (HCPC) to add people they consider to be “fit and proper and suitably experienced” to an emergency temporary professional register for the duration of a public health emergency as declared by the Secretary of State.	In operation	Commenced and still in force No change to status since last reporting period
UK Act	Section 4 and schedule 3 – Emergency	Section 4 introduces schedule 3 which makes temporary modifications to the National	In operation	Commenced and still in force

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
	arrangements concerning medical practitioners: Scotland	Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004 and creates a limited exception to the requirement that NHS GPs must be accepted on a register with their local Health Board (called a “performers list”) before beginning to practice in any GP surgery which provides NHS care in that Health Board’s area.	The use of the powers is largely an administrative process and it is for Health Boards to decide whether GPs can perform whilst their application is pending. As such there is no central oversight of the extent of the use of the powers in the reporting period. The provisions continue to be required due to the continuous risk that Health Boards will be subject to staff shortages which could delay the standard processes around the performers list. Powers to further modify the application process by regulations have not been used.	No change to status since last reporting period
UK Act	Section 7 and schedule 6 - Temporary registration of social workers: Scotland	The provision increases the available social work workforce during the pandemic by inviting those on a career break, recently retired and final year students to join the register and return to/join frontline services.	<p>In operation</p> <p>A direction was made by Scottish Ministers on 30 March 2020 (under section 46C(1) of the Regulation of Care (Scotland) Act 2001) - directing the Scottish Social Services Council to consider applications for registration as a temporary social worker in accordance with section 46D of the Regulation of Care (Scotland) Act 2001.</p> <p>The temporary social work register has been established and over 200 registrants are available to be deployed to frontline services. Details have been shared with Local Authorities in order that they can</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
			access registrants should they need to recruit additional social workers.	
UK Act	Section 10 and schedule 9 - Temporary modification of mental health legislation	See section 7.3.1	Not in operation Supplementary information provided – see section 7.3.1 for further information.	Not yet commenced No change to status since last reporting period
UK Act	Section 12 - Indemnity for health services activity: Scotland	The provision grants Scottish Ministers the discretionary power to make indemnity arrangements for any person who is working within the NHS in Scotland, where the indemnity relates to coronavirus.	Not in operation Scottish Ministers issued a direction ²¹ on 7 April 2020 under existing powers (the NHS (Scotland) Act 1978) to Health Boards to indemnify staff engaged in the coronavirus response. As directions were made under existing powers in the first reporting period, the provisions around indemnity arrangements under section 12 of the UK Act have not had to be used by Health Boards in this reporting period.	Commenced and still in force No change to status since last reporting period
UK Act	Section 16 - Duty of Local Authority to assess needs: Scotland, and section 17 – section 16:	See section 7.3.2	In operation Supplementary information provided – see section 7.3.2 for further information.	Commenced and still in force No change to status since last reporting period

²¹ Scottish Ministers indemnity cover direction - <https://www.sehd.scot.nhs.uk/publications/DC20200407negligence.pdf>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
	further provision			
UK Act	Section 18 and schedule 13 - Registration of deaths and still-births etc.	Section 18 introduces schedule 13 which contains temporary modifications relating to the registration of deaths and still-births across the UK. Part 2 of schedule 13 relates to Scotland.	In operation The provisions were commenced by regulations ²² on 26 March 2020. The regulations were made by UK Ministers with the consent of Scottish Ministers. The provisions allow death and still-birth registration without the need for in-person attendance at a registration office. Provisions continue in active use. The provisions have continued to be implemented successfully in this reporting period.	Commenced and still in force No change to status since last reporting period
UK Act	Section 20 and schedule 14 – Review of Medical Certificate of Cause of	Provisions under part 1 enable Scottish Ministers to suspend the requirement to review randomly selected Review of Medical Certificates of Cause of Death by the Death Certification Review	Part 1 – not in operation. Use of the power that was in operation for part of the first reporting period was revoked by direction ²³ on 11 May 2020.	Commenced and still in force No change to status since last reporting period

²²The Coronavirus Act 2020 (Commencement No. 1) Regulations 2020 - <https://www.legislation.gov.uk/uksi/2020/361/made>

²³Direction under paragraph 2(4) of schedule 14 (Review of medical certificates of cause of death and cremations: Scotland) of the Coronavirus Act 2020 (C.7) - <https://www.gov.scot/binaries/content/documents/govscot/publications/regulation-directive-order/2020/05/coronavirus-act-2020-c-7-direction-under-paragraph-24-of-schedule-14/documents/direction-under-paragraph-24-of-schedule-14-of-the-coronavirus-act-2020-c-7--11-may-2020/direction-under-paragraph-24-of-schedule-14-of-the-coronavirus-act-2020-c-7--11-may-2020/govscot%3Adocument/DIRECTION%2B-%2Bs20%2BSchd%2B14%2BPart1%2B-%2Brevocation%2Bof%2Bsuspension%2Bunder%2Bparagraph%2B2%2B-%2BFINAL.pdf>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
	Death and cremation: Scotland	<p>Service (DCRS) and pause interested persons reviews under the Certification of Death (Scotland) Act 2011.</p> <p>Provisions under part 2 give Scottish Ministers the power to dis-apply the offence under section 49 of the Burial and Cremation (Scotland) Act 2016, insofar as it relates to the signing of an application for cremation. It also enables Scottish Ministers to suspend sections 53-55 of the Burial and Cremation (Scotland) Act 2016 and relevant associated provisions of the Cremation (Scotland) Regulations 2019.</p>	Part 2 – in operation. In the first reporting period, Scottish Ministers made two determinations ²⁴ (on 8 April 2020) which suspended certain provisions within the Burial and Cremation (Scotland) Act 2016 and the Cremation (Scotland) Regulations 2019. There have been no changes from the position in the first reporting period.	
UK Act	Section 22 - Appointment of temporary Judicial Commissioners	The provision relates to the appointment of Judicial Commissioners under the Investigatory Powers Act 2016. Judicial Commissioners are appointed by the Prime Minister,	<p>In operation</p> <p>The Investigatory Powers (Temporary Judicial Commissioners and Modification of Time Limits) Regulations 2020 (SI</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>

²⁴ Coronavirus Act 2020 (C.7): determination under paragraph 8(1) of Schedule 14 (Cremations) - <https://www.gov.scot/publications/coronavirus-act-2020-c-7-direction-under-paragraph-81-of-schedule-14/>

Coronavirus Act 2020 (C.7): determination under paragraph 9(1) of part 2 of Schedule 14 (Cremations) - <https://www.gov.scot/publications/coronavirus-act-2020-c-7-direction-under-paragraph-91-of-part-2-of-schedule-14/>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		<p>following consultation with Scottish Ministers. The purpose of this provision is to allow the Secretary of State to make regulations allowing the Investigatory Powers Commissioner to appoint temporary commissioners for a 6 month period, renewable to 12 months.</p>	<p>2020/360)²⁵ came into force on 27 March 2020.</p> <p>The provision is in operation and it continued to be necessary in this reporting period.</p> <p>The appointment of Temporary Judicial Commissioners has ensured that warrants needed by intelligence and law enforcement agencies continued to be considered. The need for this provision will be kept under review by the independent Investigatory Powers Commissioner.</p>	
UK Act	Section 23 - Time limits in relation to urgent warrants under Investigatory Powers Act	<p>The provision relates to time period for urgent warrants under the Investigatory Powers Act 2016 and gives the Secretary of State the power to make provision by regulations which extend the time periods applying to urgent warrants, should this be necessary given the impact that coronavirus is having, or is likely to have on the capacity of Judicial</p>	<p>In operation</p> <p>The Investigatory Powers (Temporary Judicial Commissioners and Modification of Time Limits) Regulations 2020 (SI 2020/360) came into force on 27 March 2020²⁶.</p> <p>The provision is in use and has continued to be necessary in this reporting period. The variation to the urgent warrant procedure</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>

²⁵ The Investigatory Powers (Temporary Judicial Commissioners and Modification of Time Limits) Regulations 2020 - <http://www.legislation.gov.uk/uksi/2020/360/made>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		Commissioners to carry out their functions.	has ensured that intelligence and law enforcement agencies have the flexibility they need to protect national security and prevent serious crime. The need for this provision will be kept under review by the independent Investigatory Powers Commissioner.	
UK Act	Sections 25 to 29 and schedule 15- Food supply	These provisions empower Scottish Ministers, by regulation, to require those involved in a food supply chain to provide information to help determine whether there is disruption (or risk thereof) to the supply chain. The provisions also provide enforcement powers and impose restrictions on the use of information.	Not in operation The provisions continue to be required, to hold in reserve, in the event that voluntary provision of information by food supply chain participants breaks down. The voluntary provision of information continues to work well.	Not yet commenced No change to status since last reporting period
UK Act	Sections 34 and 35 - Temporary disapplication of disclosure offences: Scotland and Power to reclassify certain disclosure	See section 7.3.3	Not in operation Supplementary information provided – section 7.3.3 for further information.	Commenced on Royal Assent but no delegated powers used No change to status since last reporting period

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
	requests: Scotland			
UK Act	Section 36 - Vaccination and immunisation: Scotland	The provisions amend section 40 of the National Health Service (Scotland) Act 1978. The requirement in that section, that vaccinations and immunisations be administered by medical practitioners or persons acting under their direction and control, is removed.	In operation In the first reporting period (on 7 April 2020), Scottish Ministers made directions ²⁷ under section 2(5) of the National Health Service (Scotland) Act 1978, to support vaccination delivery by GP practices where they are affected by coronavirus. The provisions have continued to be in operation in this reporting period.	Commenced and still in force No change to status since last reporting period
UK Act	Section 37 and part 2 of schedule 16 and section 38 and part 2 of schedule 17 - Temporary closure of educational institutions and childcare premises, and Temporary continuity:	See section 7.3.4	Schedule 16, Part Two – not in operation Schedule 17, Part Two – in operation Supplementary information provided - see section 7.3.4 for further information.	Commenced and still in force No change to status since last reporting period

²⁷ Provision of routine vaccinations and immunisations (Coronavirus Outbreak) (Scotland) Directions 2020 - https://www.sehd.scot.nhs.uk/publications/DC20200407Delivery_vaccinations_immunisations_coronavirus.pdf

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
	education, training and childcare			
UK Act	Section 46 - NHS pension schemes: suspension of restrictions on return to work: Scotland	The provision suspends pension scheme rules which prevent retired NHS staff from returning to work for more than 16 hours per week and require that some staff's pensions are abated upon return to work. It also suspends the requirement that NHS staff reduce their pay by 10% if they elect to 'draw down' their benefits and continue working.	<p>In operation</p> <p>The suspension of pension scheme rules has allowed former NHS staff to return to frontline NHS roles, adding vital capacity to the NHS workforce. The measures allow skilled and experienced staff who have recently retired from the NHS to return to work, and they have also allowed retired staff who have already returned to work to increase their commitments if required, without having their pension benefits suspended.</p> <p>1,694 retired staff recruited through the COVID-19 Accelerated Recruitment Portal have undergone pre-employment checks during the period and a number of those staff have now been deployed.</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>
UK Act	Section 49 and schedule 19 - Health Protection Regulations: Scotland	See section 7.3.5	<p>In operation</p> <p>Supplementary information provided – see section 7.3.5 for further information.</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
UK Act	Section 51 and part 3 of schedule 21 - Powers relating to potentially infectious persons	See section 7.3.6	<p>Schedule 21 powers were switched on by way of statutory declaration in March, however the powers have not been used in this reporting period.</p> <p>Supplementary information provided – see section 7.3.6 for further information.</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>
UK Act	Section 52 and part 3 of schedule 22 - Powers to issue directions relating to events, gatherings and premises	See section 7.3.7	<p>Schedule 22 powers were switched on by way of statutory declaration in March, however the powers have not been used in this reporting period.</p> <p>Supplementary information provided – see section 7.3.7 for further information.</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>
UK Act	Section 58 and schedule 28 – Powers in relation to transportation, storage and disposal of dead bodies etc.	Section 58 and schedule 28 contain powers relating to the transportation, storage and disposal of dead bodies and other human remains. If advice indicates that the number of people who might die from coronavirus is likely to significantly exceed the capacity to locally or nationally manage the deceased, designated Local Authorities and	<p>Not in operation</p> <p>Although the powers have not been used in the reporting period, the provision is judged to continue to be necessary in order to ensure that the powers can be used in future if needed and in particular to ensure the ability to respond to particular pressures in a specific Local Authority area should these emerge at any point. While there is potential for a resurgence of the virus, the</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
		Scottish Ministers have the ability to take control of a component or components of the death management process.	provisions should continue to be available. The Scottish Government has discussed this with the Society of Local Authority Chief Executives (SOLACE) and it has endorsed the Government's approach.	
UK Act	Sections 69 and 70 - Postponement of elections: Scotland	The provisions enable Returning Officers and the Presiding Officer to respectively postpone local government by-elections and by-elections for constituency seats to the Scottish Parliament.	<p>Section 69 – not in operation – the provisions will only be relevant if a vacancy for a Scottish Parliament constituency seat occurs during the period of the provision being in force.</p> <p>Section 70 – in operation –in the first reporting period, ten local government by-elections had been postponed. In the second reporting period, no further by-elections have been postponed.</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>
UK Act	Section 75 - Financial assistance for industry (disapplication of limit under section 8 of the Industrial Development Act 1982)	This provision provides that financial assistance provided under section 8 of the Industrial Development Act 1982 is not to count towards the limits set out in the subsection of section 8, if the assistance has been given in relation to the coronavirus.	<p>In operation</p> <p>This provision has elements of both reserved and devolved competence. As set out within section 75(3) of the UK Act there are alternative reporting requirements in place for this provision, however these only relate to designated assistance provided by the Secretary of State, it does not cover assistance provided the Scottish Ministers or Welsh Ministers.</p>	<p>Commenced and still in force</p> <p>No change to status since last reporting period</p>

Act	Provision	Description of Provision	Operation of the Provision in Reporting Period Two (ending 31 July 2020)	Status at End of Reporting Period Two (ending 31 July 2020) and Details of Any Change to Status Since Last Reporting Period
			As it applies to Scotland, the power has been in operation in the period relating to funding paid under the VisitScotland Support Fund for Destination and Sectoral Organisations. The provision also applies to the Energy Transition Fund, however no monies were paid in respect of this, in the reporting period.	

7. Supplementary information

7.1 First Scottish Act

7.1.1 Section 2 and schedule 1 - Eviction from dwelling-houses

Description of Provisions

- 7.1.1.1 The provisions increase the notice period across all eviction grounds in the private and social rented sector, except the abandonment and vacant property grounds and for short Scottish secure tenancies, the antisocial behaviour grounds. For the private rented sector, the provisions amend all the eviction grounds a landlord can use to regain possession to make them discretionary.

Operation of Provision in Reporting Period

- 7.1.1.2 Section 2, schedule 1, paragraph 1, sub paragraph 2 makes all private rented sector eviction cases going before the First-tier Tribunal (Housing and Property Chamber) to be considered on a discretionary basis. These powers have not been exercised in the reporting period because the Tribunal had suspended business until 9 July 2020 and no cases falling within the scope of the first Scottish Act were heard in June and July 2020.
- 7.1.1.3 Section 2, schedule 1, paragraph 8 provides a power for Scottish Ministers, exercisable by the negative procedure, to modify the length of any period of notice specified to apply during the relevant period. In exercising this power, the Scottish Ministers cannot specify a notice period which is longer than six months. This power under the provision has not been used in the reporting period.
- 7.1.1.4 The provisions which extend the notice period to - in effect - halt any eviction action under the existing legislation including the Private Housing (Tenancies) (Scotland) Act 2016 and the Housing (Scotland) Act 2001, for up to six months, have been used in the reporting period. This applies to both the social and private rented housing sectors in order to ensure that the position is absolutely clear for all landlords in Scotland.
- 7.1.1.5 Before the provisions commenced, a tenant with a private residential tenancy could have been asked to leave their home within 28 days of a notice being served by the landlord, if they had been living in the property for six months or less; or if the landlord was using an eviction ground to do with the tenant's behaviour. Where a tenant had lived in a property for six months or more and the eviction ground did not relate to the tenant's behaviour, a landlord was required to give 84 days' notice. With the new provisions, the tenant can stay for up to six months before an application can be made to the Tribunal to repossess a property.

Factors Considered to Determine Use and Continued Necessity

- 7.1.1.6 In this reporting period, in order to assess the continued necessity of the provision, the Scottish Government has considered various sources of information. Recent employment statistics show that the employment rate in Scotland in the period March to May 2020 has fallen by 1.2 percentage points compared to the previous quarter, with the unemployment claimant count in the latest month (June 2020) totalling 215,200 claimants, almost double the level compared to the previous year. There has also been a substantial increase in Universal Credit claims in recent months, with 440,000 people in Scotland now on Universal Credit as at May 2020, an increase of two-thirds on the 264,000 people in March 2020²⁸. Up to the end of June 2020, a total of 736,500 employees in Scotland have been furloughed²⁹, with a further 155,000 claims made by self-employed workers³⁰. As we move towards furlough ending there are significant concerns around the potential for further job losses.
- 7.1.1.7 In addition to this, there is evidence that renting households are less likely than homeowners to have enough savings to cope with a fall in employment income. Recent Office for National Statistics (ONS) analysis of household financial resilience shows that an estimated 28% of renting households in Scotland would be unable to cover a 20% loss of income for one month, rising to 43% if the loss were sustained for three months³¹.
- 7.1.1.8 A recent survey commissioned by the Joseph Rowntree Foundation shows that in the private rented sector in Scotland in June 2020, almost half of tenants (45%) have seen a drop in their incomes since March 2020. Of those, seven in 10 (71%) have cut back on spending, and nearly six in 10 (58%) have had to borrow or use up savings, the highest proportion of any tenure. In addition, 4 in 10 (42%) private renters are worried about their ability to pay rent after lockdown is lifted, and 25% of private tenants have already fallen behind with a payment, most likely gas, electricity and other bills³².

²⁸ Universal Credit Scotland Dashboard, June 2020 -

<https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2020/06/universal-credit-scotland-dashboard-june-2020/documents/universal-credit-scotland-june-2020/universal-credit-scotland-june-2020/govscot%3Adocument/Universal%2BCredit%2BScotland%2BDashboard%2B-%2BJune%2B2020.pdf>

²⁹ Coronavirus Job Retention Scheme statistics: July 2020 -

<https://www.gov.uk/government/statistics/coronavirus-job-retention-scheme-statistics-july-2020>

³⁰ Self-Employment Income Support Scheme statistics: July 2020 -

<https://www.gov.uk/government/statistics/self-employment-income-support-scheme-statistics-july-2020>

³¹ Office for National Statistics Coronavirus (COVID-19) roundup -

<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/conditionsanddiseases/articles/coronaviruscovid19roundup/2020-03-26#lossofincome>

³² Joseph Rowntree Foundation survey of Scottish households - <https://www.jrf.org.uk/press/almost-third-scots%E2%80%99-incomes-have-reduced-lockdown-half-affected-renters-worried-about-paying>

7.1.1.9 Monthly coronavirus information published by the Scottish Housing Regulator³³ shows that the total value of rent arrears in the social sector at the end of April 2020 was £148.6 million, following which it increased by £8.0 million (5.4%) during the month of May 2020, and then by a further £3.5 million (2.3%) during June 2020, bringing total social sector rent arrears to stand at £160.2m as at end June 2020. During June 2020 there were a total of 245 notices of proceedings for recovery of possession issued by social landlords to tenants for rent arrears, and a total of 30 court actions for eviction initiated, levels which are significantly lower when compared to average monthly figures for previous years.

7.1.1.10 Evidence on the scale of rent arrears and repossession proceedings in the private rented sector in Scotland is as yet relatively limited, with some mixed findings being reported so far, although this may become clearer as further evidence is gathered and reported on, including by the First Tier Tribunal (Housing and Property Chamber). In terms of rent arrears, recent research findings by the Joseph Rowntree Foundation³⁴ state that there has not been any sharp increase in rent arrears for private renters identified as yet, with fewer than one in ten private tenants in Scotland estimated to be in arrears as at June 2020. However, a separate analysis carried out by PayProp, based on the data that it holds from the processing of rent payments from tenants in Scotland, shows that the percentage of tenants in arrears, based on the sample of tenants paying rent across the January to May 2020 period, has increased from 8% in March, up to 13% in April, and then 14% in May³⁵.

7.1.1.11 The provisions remain necessary to ensure that tenants, including those who have become unemployed, or will become unemployed as the furlough scheme ends, have time to apply for, and receive, the available support in the short term and, if necessary, to give them time to plan for the longer term as we recover from this unprecedented crisis. The provisions also continue to be necessary in order to help mitigate any further pressure on housing, health and other public services.

7.1.1.12 Established in April 2020, the Private Rented Sector Resilience Group provides a valuable mechanism for key stakeholders to discuss issues arising from the coronavirus outbreak and it assists in monitoring the impact, and continuing need for, these provisions. Meeting on a fortnightly basis, a key focus of the groups' work is on tenancy sustainment and raising tenants awareness of their rights, as well as the advice and financial support available, given the emerging evidence of an increase in rent arrears and a rise in those seeking housing advice.

³³ Scottish Housing Regulator monthly Covid-19 dashboards - <https://www.housingregulator.gov.scot/landlord-performance/national-reports/monthly-covid-19-dashboards>

³⁴ Joseph Rowntree Foundation research findings - <https://www.jrf.org.uk/blog/government-can-provide-housing-lifeline-coming-economic-storm>

³⁵ Bespoke analysis provided by PayProp, based on residential clients in Scotland who processed funds in all 5 months January to May 2020.

- 7.1.1.13 The Social Sector Resilience Group meets weekly to discuss and resolve issues of common interest, to ensure that landlords can deliver and maintain essential services during the period of the coronavirus outbreak and also assists in monitoring the impact and ongoing need for these provisions.
- 7.1.1.14 As part of the continuing evaluation of the impact of private residential tenancy, the Scottish Government is participating in the three year Rent Better research programme (2019-2022) funded by the Nationwide Foundation as part of its Transforming the Private Rented Sector stream. Rent Better aims to understand the impact of the changes on tenants and landlords, and involves both quantitative and qualitative research with a wide range of stakeholders including families with children. Wave one fieldwork is complete with an overview report due later this year. Wave two will include the impact of coronavirus on private renters.
- 7.1.1.15 The Scottish Government assessed the potential impact of these provisions on human rights, children's rights and equalities prior to the introduction of the legislation and continues to keep these rights under review when considering their continued necessity.
- 7.1.1.16 The impact on a landlord's human rights with regards to their ability to be able to regain possession of their property in relation to Article 1 of Protocol No. 1 to the European Convention on Human Rights has been reviewed. The Scottish Government's view is that the temporary nature of the provisions continue to strike an appropriate balance between the landlord's rights in the property, and the rights of the tenant to be protected during the pandemic. The maximum period of notice that the landlord will have to provide will be six months and the provisions will not affect notices which have already been issued under existing notice periods.
- 7.1.1.17 There has been no change during the period covered by the report to the continuing need for tenants across both the social and private rented sectors to be protected against eviction.
- 7.1.1.18 Recent briefing from the Joseph Rowntree Foundation³⁶ provides some information on the known impacts of the financial pressures related to the pandemic on the different equality groups, including:
- A majority of households in all age groups except the over-55s reported extra costs as a result of the pandemic, reflecting more people complying with lockdown rules and staying at home for longer. Four in ten (42%) reported extra costs for food and three in ten (30%) for gas and electricity. These numbers are significantly higher (63% and 45% respectively) for families with children. Around one in four households (23%) say they are not able to cover these extra costs comfortably.

³⁶ Joseph Rowntree Foundation briefing - <https://www.jrf.org.uk/report/stronger-scottish-lifeline-economic-storm>

- There are indications that the pandemic has created financial pressure which is impacting on mental health and family life. Two-thirds of parents relying on Universal Credit or Child Tax Credit report money worries having either a significant (25%) or moderate (40%) impact on their mental health.

7.1.1.19 The Scottish Government considers that the temporary legislative changes to protect renters continue to have a positive impact across those with protected characteristics, including women who are more likely to have caring responsibilities and therefore be impacted more significantly – socially and financially - by the consequences of the outbreak. An estimated 54% of householders in the social rented sector are female, with the equivalent percentage for private renting households being 43%³⁷. The legislative measures continue to prevent all renters across all equality groups from being evicted during the current crisis. Research carried out by the Resolution Foundation in May 2020³⁸ indicated that across the UK one-third of 18 to 24 year old employees had lost jobs or been furloughed, compared to one-in-six prime-age adults. In Scotland, over half (53%) of all highest income householders aged 16 to 24 live in the private rented sector, a total of 60,000 households³⁹. In terms of disability, 59% of households in the social rented sector in Scotland have someone living with a long term physical or mental health condition or illness.

7.1.1.20 Family households are, as expected, significantly impacted by the health crisis. There is no evidence of some groups of children and young people being affected disproportionately by the provisions. Keeping the measures in place whilst we recover from the social and economic crisis will ensure both children and young people living within rented family homes continue to be protected from homelessness, with an estimated 230,000 children living in the social rented sector⁴⁰ and 120,000 children living in the private rented sector⁴¹.

7.1.2 Section 4 and schedule 3 – Children and vulnerable adults – Part 1 – Children

Description of provisions

7.1.2.1 **Child protection provisions:** The provisions remove the requirement for a second working day hearing to be held following the issuing of a Child

³⁷ Social tenants in Scotland 2017 - <https://www.gov.scot/publications/social-tenants-scotland-2017/pages/1/>

³⁸ Resolution Foundation: young workers in the coronavirus crisis - <https://www.resolutionfoundation.org/app/uploads/2020/05/Young-workers-in-the-coronavirus-crisis.pdf>

³⁹ Scottish household survey 2018: annual report - <https://www.gov.scot/publications/scotlands-people-annual-report-results-2018-scottish-household-survey/>

⁴⁰ Social tenants in Scotland 2017 - <https://www.gov.scot/publications/social-tenants-scotland-2017/pages/1/>

⁴¹ Scottish household survey 2018: annual report - <https://www.gov.scot/publications/scotlands-people-annual-report-results-2018-scottish-household-survey/>

Protection Order (CPO), and to amend timescales in relation to the issuing of Child Assessment Orders (CAO).

7.1.2.2 Children’s hearings provisions: The provisions relax existing requirements for the composition of children’s hearings, and the administration and conduct of children’s hearings and there are extensions to the timescales for when certain legal orders must be reviewed and appeals against legal orders lodged.

7.1.2.3 Looked after children provisions: The provisions extend the timescales for review of children’s cases when they are placed in different forms of accommodation and enable Local Authorities to use foster carers more flexibly to look after additional children when necessary.

Operation of Provisions in Reporting Period

7.1.2.4 This section provides supplementary information on the use of children’s provisions within Part 1 of schedule 3 of the first Scottish Act. Guidance⁴² on the use of provisions has been published. The provisions have been separated into three groups: child protection provisions, children’s hearings provisions and looked after children provisions, as data comes from different sources and there are separate structures to assess continued necessity of the provisions within each group.

7.1.2.5 The data in relation to the use of the powers under section 4 and schedule 3, Part 1 covers the first reporting period 7 April to 20 May 2020 and the second reporting period 21 May to 15 July 2020, unless specified otherwise below. Information on where data has been gathered has been included along with any caveats about the data provided.

Child protection provisions

No requirement for a second working day hearing to be held following the issuing of a CPO

7.1.2.6 Under the first Scottish Act (schedule 3, paragraph 2(3) to (6)), which amends relevant provision of the Children’s Hearings (Scotland) Act 2011– ‘the 2011 Act’), the second working day children’s hearing is not required. Instead a children’s hearing to consider grounds for referral will sit on or before the eighth working day. Until the eighth working day, a child or relevant person can make an application for the CPO to be recalled or varied (ordinarily this would have been available until the second working day children’s hearing under the 2011 Act) and for two working days following the second working day children’s hearing (if the order is continued or varied by that hearing).

⁴² Coronavirus (Scotland) Act 2020 – Guidance on looked-after children and children’s hearings provisions - <https://www.chip-partnership.co.uk/wp-content/uploads/2020/04/Coronavirus-Scotland-Act-2020.pdf>

7.1.2.7 In the first reporting period, there were 83 CPOs⁴³ and in the second reporting period there have been 97 CPOs. The use of this provision has meant that Scottish Children's Reporter Administration (SCRA) did not have to hold second working day children's hearings in these cases.

Amendment of timescales in relation to the issuing of CAO

7.1.2.8 These provisions were made under the first Scottish Act, schedule 3, paragraph 2(2). In the first reporting period, there were no CAOs and in the second reporting period one CAO was initiated⁴⁴. Although there is low usage, the provisions continue to be useful, proportionate, and necessary, particularly in light of the need to ensure that services can assess vulnerable children who are not visible to services during coronavirus, when necessary.

Children's hearings provisions

Relaxation of requirement for children's panel to consist of three members and relaxation of requirement to have a gender mix on each children's hearing

7.1.2.9 The provisions (first Scottish Act, schedule 3, paragraph 1) include relaxation of the requirement for children's hearings to consist of three members and to have a gender mix.

7.1.2.10 In the first reporting period, five hearings had fewer than three panel members in attendance, and one did not have both male and female members.⁴⁵

7.1.2.11 In the second reporting period, 22 hearings had fewer than 3 panel members in attendance, and 18 did not have both male and female members. No hearings proceeded with only one panel member in attendance. The total number of hearings making use of the relaxation provisions during the reporting period was 30. This differs from the total making use of the two provisions (22 and 18, above) because both provisions can be used simultaneously (where, for example, a panel consists of 2 panel members of the same gender).⁴⁶

7.1.2.12 Since the powers came in to force, therefore, 27 hearings have had fewer than 3 panel members in place, and 19 did not have both male and female members. As noted above, there will be instances where both provisions were used at the same hearing. It is not possible to provide the exact total

⁴³ This data was provided by Scottish Children's Reporter Administration.

⁴⁴ This data was provided by the Scottish Courts and Tribunals Service.

⁴⁵ This data is from Children's Hearings Scotland (CHS). It comes from reports from Area Support Teams from 7 April – 6 May and from 7 May onwards, data is drawn from survey of Panel Members feedback on hearings in which they participated and from AST reports. 317 responses were received, of which 276 were completed in full and 41 completed in part. It should be noted that the survey responses do not reflect reports on 100% of hearings. However, the National Convener also required Area Support Teams to report when the powers have been used.

⁴⁶ For the second reporting period, CHS introduced a new survey collecting information on the composition of panels at hearings. Returns reporting on 826 hearings were received.

number of individual hearings making use of the relaxation powers since they came in to force as the recording of this was not introduced until the second reporting period. The maximum total, however, would be 36 hearings (6 from the first reporting period, 30 from the second).

Maximum period for which a Compulsory Supervision Order (CSO) has effect

7.1.2.13 The first Scottish Act (schedule 3, paragraph 3) provides that if a hearing has not taken place to review a CSO before it expires, the order will not expire, unless six months have passed since the expiry date or the child has attained the age of 18 years. However, alongside this, there is a duty on the Principal Reporter to arrange a hearing before the original expiry date, and if not, to arrange the hearing as soon as practicable thereafter.

7.1.2.14 Within the first reporting period there were 467 CSOs, where orders have been extended beyond their expiry date⁴⁷. Within the second reporting period only, there were 844 CSOs, where orders have been extended beyond their expiry date. This provision has only been used to the extent necessary driven by the practicalities of holding children's hearings in the current context, and the extent of use will vary as the safety and operational contexts develop. Due to the severe restriction in the number of children's hearings which could be held, this provision has had the effect of extending a number of orders. Prioritisation of work has been essential to ensure continuity of protections for children and young people and putting in place appropriate legal measures to keep children and young people safe. The SCRA has been unable to operate at anywhere near normal capacity as a result of movement restrictions, social distancing and virus prevention measures put in place and enforced. The SCRA is seeking to increase the number of hearings now that restriction measures are reducing. This will be by arranging face to face hearings, sometimes with some participants attending remotely, but also continuing to hold virtual hearings. The Principal Reporter is applying a prioritisation framework to enable the timely consideration of individual cases to the maximum extent possible, in consultation with referring authorities and with children/relevant persons, and is closely monitoring the situation with a view to arranging such hearings as soon as practicable. While service user availability, views and preferences for rescheduling are only elements of 'practicability' - more significant considerations being need and risk - the SCRA has done so following dialogue with social workers and families. Those involved indicated they would prefer to come back at a later date to a face to face children's hearing. Reporters are reviewing these arrangements on a case by case basis, and

⁴⁷ The data on this provision and all of the children's hearings provisions that follow is from the SCRA. Its case management system was not set up for recording the detail of this legislation so generating figures has been complex. To enable SCRA to provide accurate totals for the two periods, they have had to re-run period one data. This has resulted in small changes in some of the numbers as the report is based on live operational data which will be subject to change over time. SCRA's live operational data is regularly adjusted by staff when issues with data integrity become apparent and as cases progress. This is especially prevalent in SCRA data where the time between the reporting period and the production of the report is short.

taking into consideration whether there would likely be a risk of detriment to the child's welfare if the CSO was not varied or terminated before the original expiry date.

7.1.2.15 During the first reporting period there were 109 children's hearings when CSOs were due to expire. During the second reporting period there have been 161 children's hearings when CSOs were due to expire. The number of hearings being held has been increasing since 4 May 2020 as the system has adapted. The SCRA continues to review the necessity of the use of this provision and the scheduling of reviews as soon as practicable. The SCRA has developed a recovery plan which models review of all CSOs where the use of the emergency legislation will gradually be reduced and will cease to be used. The provision in the first Scottish Act allows an expiry review of a CSO to take place up to six months after the original expiry date. The use of this six month period will be reduced incrementally as the SCRA increases its capacity, and its ability to arrange expiry review hearings becomes more practicable.

Maximum period for which Interim Compulsory Supervision Order (ICSO) or Interim Variation of Compulsory Supervision Order (IVSCO) has effect

7.1.2.16 To allow more flexibility for agencies seeking to respond in a prioritised way to the challenges posed by the coronavirus pandemic, paragraph 4(2) and (3) of schedule 3 of the first Scottish Act amend sections 86(3) and 140(4) of the 2011 Act. This provides that the maximum period for which an ICSO or an IVSCO has effect is:

- where the order is made by a children's hearing, 44 days, or
- where the order is made by a sheriff, such other period as the sheriff may specify.

7.1.2.17 As with the existing legislation, a hearing may make an ICSO or interim variation for a shorter period than the maximum.

7.1.2.18 Table Two below sets out the interim orders where the provision has been used (some children will have had more than one interim order issued in the period and the figures include orders which authorised secure accommodation). It is not possible to calculate how much time has been added; some orders will have had the maximum time (44 days for a hearing/ possibly longer for the Sheriff Court) and others will have had different times up to the maximum.

Table Two – Interim orders where the provision has been used

	Report Period 1	Report Period 2	Total
Interim Order Type			
ICSO	284	371	655

IVCSO	152	158	310
Court ICSSO / IVCSO (including following appeal)	244	262	506
Total	680	791	1,471

Period within which children’s hearing must be heard in certain cases - secure care and other place of safety placements

7.1.2.19 In the first reporting period, of 16 interim orders authorising the use of secure accommodation, 9 used the extended timescales which are available under the provision. In the second reporting period of 29 interim orders authorising the use of secure accommodation, 13 used the extended timescales which are available under the provision. The provision extends the timescales to hear an appeal to seven working days from three working days in situations that the existing permitted timescales i.e. three days is not practicable.

Extended timescale following emergency transfer of a child or young person to secure accommodation

7.1.2.20 The first Scottish Act (schedule 3, paragraph 6) allows the Principal Reporter the discretion to extend the period within which a children’s hearing must be held by 24 hours (from 72 hours to 96 hours) where it is not practicable to meet the existing timescale. The SCRA has recorded fewer than 5 cases where a young person has been kept in secure accommodation for an additional 24 hours before coming to a children’s hearing.

Modification of certain time limits for making and determination of appeals

7.1.2.21 Paragraph 7 of schedule 3 of the first Scottish Act extends the time limits for the making, disposal or determination of appeals or the making or lodging of applications. Disaggregated data is not available from the SCRA or the SCTS.

7.1.2.22 The SCRA has supplied data in relation to appeals which were lodged under the provisions of the first Scottish Act after 7 April 2020 and were determined before 15 July 2020. The SCRA does not record the data to distinguish appeals specifically modified by the provisions of the first Scottish Act, but it has been able to provide figures which indicate the current position in relation to appeals of decisions from the children’s hearing.

7.1.2.23 Schedule 3, paragraph 7(2) of the first Scottish Act extends the period of time available for a person with the right to appeal a decision of a children’s hearing to lodge that appeal at the Sheriff Court (from 21 to 42 days). There have been 15 appeals of decisions in relation to a CSO that have been determined in the period 7 April to 15 July 2020, and the average time taken from the date of the children’s hearing to the determination of the appeal was 34 days.

- 7.1.2.24 Schedule 3, paragraph 7(3) of the first Scottish Act extends from three to seven days the time limits for the determination of certain short notice appeals. There were 59 appeals of ICISOs determined in the period 7 April to 15 July 2020, and the average time taken from the date of the children’s hearing to the determination of the appeal was 15 days (please note that appeals may not have been lodged until several days after the hearing).
- 7.1.2.25 Schedule 3, paragraph 7(4) of the first Scottish Act extends the time limit for making an appeal in relation to a relevant person determination from 7 to 21 days and extends the time period for determination of the appeal in relation to a relevant person determination from 3 to 7 days. There were 2 appeals of relevant person determinations (made by a children’s hearing or a pre-hearing panel) in the period 7 April to 15 July 2020 and the average time taken from the date of the children’s hearing to the determination of the appeal was 24 days for the children’s hearing decision and 12 days for the pre-hearing panel decision (please note that appeals may not have been lodged until several days after the hearing).
- 7.1.2.26 Schedule 3, paragraph 7(5) of the first Scottish Act extends the time limits for lodging appeals in relation to a decision affecting a contact direction or permanence order from 21 to 42 days and extends the time for determination of the appeal from 3 to 7 days. The SCRA recorded no appeals of this type in the period 7 April to 15 July 2020.

Dispensation with physical attendance at children’s hearings

- 7.1.2.27 Schedule 3, paragraph 8 of the first Scottish Act covers attendance of persons other than children or relevant persons to facilitate remote attendance of other persons. There is existing provision in rule 19 of the procedural rules to enable attendance by other means.
- 7.1.2.28 All of the 2319 children’s hearings that have taken place over the two reporting periods have been ‘virtual children’s hearings’ as children, family members, professionals, reporters and the decision makers (panel members) have been unable to attend the public spaces in children’s hearings centres.

Authentication of children’s hearings documentation by electronic signature

- 7.1.2.29 Schedule 3, paragraph 9 of the first Scottish Act covers authentication of documents by electronic signature. This power has been used in all of the 2319 children’s hearings held over the two reporting periods.

Looked after children provisions

- 7.1.2.30 Schedule 3, paragraph 10 of the first Scottish Act extends the timescales for review of children’s cases when they are placed in kinship care and enables Local Authorities to work with foster carers more flexibly to look after additional children when necessary.

- 7.1.2.31 24 Local Authorities across Scotland have been able to provide data on the use of these provisions to date. Use of the provisions has been relatively low, and varied between Local Authority areas. Some Local Authorities have not needed to use any of the provisions as their social work teams had enough capacity to respond to demand.
- 7.1.2.32 The provisions have been used to allow more than three children to be placed with a foster carer 17 times during the first and second reporting periods. There have been five instances of a child being placed with a kinship carer, in an emergency, for a period not exceeding five working days, rather than three working days, a kinship placement has been extended in an emergency once, and the timeframes for a kinship review has been extended seven times during the first and second reporting periods.
- 7.1.2.33 Whilst not all Local Authorities have needed to use the provisions, there has been a general consensus that the provisions have been helpful to allow the right decisions to be made for a child, and that they may be useful if there is a surge in referrals when schools return which could place additional pressure on foster or kinship placements.

Factors Considered to Determine Use and Continued Necessity

- 7.1.2.34 The main factors which have been considered in the assessment of continued necessity of the provisions include: prevailing Government guidance and public health advice, an assessment of the impact of the pandemic on the health and availability of staff and volunteers, and an assessment of the impacts on vulnerable and disadvantaged children and families. In the context of this emergency, these provisions are designed to enable best use of very limited resources in Local Authorities, and the children's hearings system, so that efforts can be focused on safeguarding the welfare of Scotland's most vulnerable children and on supporting families and carers who need it most. The measures in the first Scottish Act are limited to those considered necessary to support and protect children's rights and promote their welfare and wellbeing in accordance with our obligations under the UN Convention on the Rights of the Child.
- 7.1.2.35 The Scottish Government is in regular dialogue with the children's services sector and children's hearings partners to monitor the impact of the pandemic on service provision and the protections afforded to children.
- 7.1.2.36 In relation to the provisions covering child protection, children's hearings and looked after children, the Scottish Government is aware that there is continued pressure on services in relation to vulnerable children and these provisions continue to be necessary. There is continued uncertainty about the impact any local outbreaks or a resurgence of the virus may have on services. Children's hearings partners are returning to face to face hearings but there will be a blended model of virtual and face to face for the foreseeable future and this continues to put pressure on the capacity of the system.

7.1.3 Section 4 and schedule 3 - Children and vulnerable adults – Part Two - Vulnerable adults

Description of Provisions

- 7.1.3.1 Paragraph 11(1) modifies the application of certain adults with incapacity principles in the use of s.13ZA of the Social Work (Scotland) Act 1968. Paragraphs 11(2) and 11(3) effectively 'stop the clock' on the duration of guardianship orders and certificates authorising medical treatment for the period the emergency legislation is in force.

Operation of Provisions in Reporting Period

- 7.1.3.2 The powers under paragraph 11(1) of this section have not yet commenced and therefore the powers have not been used in the reporting period.
- 7.1.3.3 Paragraphs 11(2) and 11(3) of this section commenced on 7 April 2020 and the powers under these sections have been used in the reporting period. In relation to expiry of guardianships, the first report stated in the period 7 April to 21 May 2020, 150 guardianships were due to expire and will have had the clock stopped when the provisions came into force. For this reporting period (22 May to 31 July 2020), 294 guardianships were due to expire and had the clock stopped.

Factors Considered to Determine Use and Continued Necessity

Paragraph 11(1)

- 7.1.3.4 The aim of the amendments to section 13ZA of the Social Work (Scotland) Act 1968, was to put provisions in place to ensure the safety of the adult, for instance where they might be in an acute hospital ward which was expecting a large influx of coronavirus patients, putting the adult at risk. In these cases the section 13ZA amendment provides a way to move the adult quickly, and with legal authority, to a more suitable location.
- 7.1.3.5 In the reporting period, the powers under this section have not required to be used. This may be in part due to a reduction in delayed discharge since the provision was introduced. Delayed discharge figures, which are monitored by the Scottish Government, have come down substantially since the section 13ZA amendments were put in place. As of 23 July 2020, they have reduced by 45% (720 beds) since the 4 March 2020 baseline. The Scottish Government is liaising very closely with Health and Social Care Partnerships on their procedures around discharge in order to monitor the continued necessity of the provision.
- 7.1.3.6 Amendments to section 13ZA remove the requirement to consult with the adult or interested parties and also allow the Local Authority to use the powers in section 13ZA where there is an existing guardian, welfare attorney or intervener with relevant powers.

- 7.1.3.7 Article 5 of the European Convention on Human Rights (right to liberty and security) could be engaged in particular with these amendments as they could be used to empower the Local Authority to speedily move adults from acute hospital beds to other more appropriate accommodation.
- 7.1.3.8 Where the amendments to section 13ZA are utilised to provide services to the adult by way of moving them in to a care home, Article 5 is likely to be engaged; careful consideration would need to be given to the individual's right to liberty and security, identifying the most appropriate accommodation which is least restrictive in relation to the freedom of the adult.
- 7.1.3.9 Article 8 of the European Convention on Human Rights (right to respect for private and family life) may also be engaged here in that Local Authorities can provide services without involving the views of the adult, or other relevant party including any guardian, welfare attorney or intervener. However, the Scottish Government is satisfied that this interference would be legitimate, proportionate and justified in that the services would be provided more quickly to protect the health, rights and freedoms of the adult.
- 7.1.3.10 These provisions continue to be necessary, particularly in light of the potential resurgence of the virus, as has been seen in other countries. The Scottish Government is alert, and very sensitive to the human rights impacts associated with these provisions and will continue to liaise very closely with stakeholders regarding the ongoing review of continued necessity of these provisions.

Paragraphs 11(2) and 11(3)

- 7.1.3.11 The powers to 'stop the clock' on the duration of guardianship orders and section 47 certificates commenced on 7 April 2020. At the end of the emergency legislative period, the time remaining on the orders and certificates will resume and applicants will have to renew their guardianship or obtain another certificate as per the usual procedure.
- 7.1.3.12 These emergency provisions prevent the expiry of guardianships, or section 47 certificates, through want of being able to get an application through court, or to get a relevant health professional (normally a doctor) to authorise the certificate. A medical practitioner and a specialised mental health doctor are required to complete reports for guardianships as well as mental health officers.
- 7.1.3.13 The factors which have been taken into consideration are the availability of the courts, the Office of the Public Guardian and relevant health professionals. In the first reporting period the courts were only processing urgent interim guardianship cases, meaning that guardianship cases were likely to expire before the renewal application could reach court. The courts

are now processing non-urgent adults with incapacity applications, which include guardianships and renewal of guardianships⁴⁸.

- 7.1.3.14 As of mid-June, the Office of the Public Guardian had 30 staff working in the office, as well as those working from home, and it is planning to increase this over the coming weeks. There has also been adaptation by all concerned, including health professionals, in dealing with cases using digital and remote methods.
- 7.1.3.15 Although the courts are processing more guardianship work than before, Social Work Scotland report that this is slow. There remain challenges in obtaining medical reports to support adults with incapacity applications and renewals. Social Work Scotland advise that general practitioners are now not wishing to undertake these and many psychiatrists are restricting the number they undertake, adding to delays in system. If the provisions were suspended, they believe the system will fail. They advise services within Health and Social Care Partnerships are slowly re-starting but there is not a huge capacity of Mental Health Officers for this work, and some are still restricted from client contact for health reasons.
- 7.1.3.16 The Mental Welfare Commission requested that these provisions were added into the emergency legislation. It advised of the difficulties professionals are experiencing and reporting in being able to 'see' people in order to make assessments for guardianships and for section 47 certificates. It stated that there remains a need to balance public health concerns, especially with regard to a resurgence of the virus, with all other considerations (including social distancing measures).
- 7.1.3.17 Social Work Scotland and the Mental Welfare Commission both raise concerns that a stop start approach of suspending and reactivating provisions could lead to confusion across the sector. Both also raised concerns that this was a particularly risky period in the trajectory of the pandemic, with the very real possibility of a resurgence of the virus as the lockdown measures ease.
- 7.1.3.18 It is possible that some of the guardianships, and the certificates to authorise medical treatment under section 47 of the Adults with Incapacity (Scotland) Act 2000 which were due to expire within the emergency period would not have been renewed. This would be in keeping with the principle in section 1(3) of the Adults with Incapacity (Scotland) Act 2000, in that an intervention shall be the least restrictive option in relation to the freedom of the adult, consistent with the purpose of the intervention. Under these amendments, they will continue for the period the emergency provisions are switched on. However, it is expected that guardians and those health professionals who have authorised medical treatment (mainly doctors), will adhere to the principles of the Adults with Incapacity (Scotland) Act 2000, and respect the adult's human rights.

⁴⁸ Scottish Courts and Tribunals: Sheriff Courts Business Update - <https://www.scotcourts.gov.uk/about-the-scottish-court-service/scs-news/2020/06/01/sheriff-courts-business-update>

7.1.4 Section 5 and schedule 4, part 4 - Extension of time limits

Description of Provision

- 7.1.4.1 The provision suspends certain time limits contained in the Criminal Procedure (Scotland) Act 1995.
- 7.1.4.2 The provisions have the effect of increasing the maximum time period that an accused person can be held on remand prior to trial, together with other time limits for progressing a criminal case including the maximum wait prior to trial where the accused is not in custody. This has an impact on the rights guaranteed by Articles 5(3) and 6(1) of the of the European Convention on Human Rights. However, the Scottish Government does not consider that these increases are incompatible with the rights under Articles 5(3) and 6(1) to a trial within a reasonable time. The increases are necessary to address the disruption to the justice system that is already being caused by coronavirus.
- 7.1.4.3 In any individual case, where an accused is brought before the court for a custody hearing, in determining whether to grant bail, the court requires to consider the accused's Article 5 and 6 rights in deciding whether it is appropriate to grant bail. Furthermore, an accused person can, at any time, apply to the court for a bail review under section 30 of the Criminal Procedure (Scotland) Act 1995, to enable the court to determine whether their continued detention is justified. The courts remain subject to the requirement to ensure that there is a fair and public hearing within a reasonable time.

Operation of Provision in Reporting Period

- 7.1.4.4 The time limits to which the provision applies are: those under section 65 of the Criminal Procedure (Scotland) Act 1995 which sets various time limits in respect of trials under solemn procedure; section 136, which requires that proceedings in summary cases must commence within six months of the alleged offence; section 147, which makes provision for summary procedure in cases where the accused has been held on remand; and section 52T, which applies the custody time limits in sections 65 and 147, where the accused is detained in hospital because of an assessment order or a treatment order. The provision applies automatically in respect of any criminal case where one of those time limits was in effect on the date when the first Scottish Act was commenced, or began after the first Scottish Act commenced.

Factors Considered to Determine Use and Continued Necessity

- 7.1.4.5 High Court trials restarted on 20 July 2020 in Edinburgh, and 21 July 2020 in Glasgow in new formats designed to ensure a safe and secure process for all involved, in compliance with public health guidelines on physical distancing and hygiene measures. Although it will involve small numbers of trials at first, the aim is to establish a safe approach that can allow as many

cases as possible to progress and begin to mitigate the impacts currently felt by victims, witnesses and those awaiting trial. Since the start of the coronavirus pandemic, there has also been a significant reduction in summary court business and although some cases are now proceeding, it is still at much lower levels than prior to coronavirus.

- 7.1.4.6 Procedural and trial backlogs, and therefore time to trial, will continue to increase until trials recover to business as usual levels. While court business is affected by coronavirus, these provisions will continue to be required.
- 7.1.4.7 Justice Analytical Services is working with the SCTS to collect data to monitor the backlog of cases in the courts, which will assist in assessing the continuing need for this extension of time limits.
- 7.1.4.8 The Justice Board for Scotland, which brings together senior leaders from Scotland's main national justice system organisations, has established a Criminal Justice Board to co-ordinate coronavirus recovery activity across policing and justice, including in the criminal courts. The Board meets every two weeks to direct and monitor progress and ensure a whole system overview of the work underway.
- 7.1.4.9 Statistics collected from the Scottish Prison Service Management Information System indicate that those being held on remand are younger than the population of Scotland as a whole (60% are under 35) and that the vast majority of the remand population (94%) are male.
- 7.1.4.10 These findings are in line with what is known about the prison population more widely – the population is predominantly male, and that younger people are disproportionately represented.
- 7.1.4.11 There are also clear links between experience of area level deprivation and likelihood of imprisonment in Scotland. Individuals from the 10% most deprived areas are over-represented in prison arrivals by a factor of three, a finding consistent across the last decade⁴⁹.
- 7.1.4.12 The impact of the extended time limits is subjective and felt differently by different individuals in different circumstances. However, evidence from the most recent Remand Prisoner Survey⁵⁰, conducted 2017, in line with other research, indicates that time on remand is particularly distressing. If accused people are held for longer on remand before their case is tried in court, this will have an effect on family life, mental health and wellbeing. This is particularly likely to be the case where the accused is remanded for an extended period for a less serious crime, and the period remanded is disproportionate to the sentence the court eventually imposes. The impact

⁴⁹ Scottish prison population: statistics 2019 to 2020 - <https://www.gov.scot/publications/scottish-prison-population-statistics-2019-20/>

⁵⁰ Prisoner Survey 2017 - http://www.sps.gov.uk/nmsruntime/saveasdialog.aspx?fileName=16th+PRISONER+SURVEY+2017+-+Remand+Bulletin6073_2849.pdf

of coronavirus on court business is likely to be a factor taken into consideration by the courts when deciding to grant bail to people accused of less serious offences but it is difficult to know the extent of this, not least because an accused may be charged with a more serious offence or offences but eventually convicted for a less serious charge.

7.1.5 Section 5 and schedule 4, part 8 - Release of prisoners

Description of Provision

- 7.1.5.1 The provision allows that the Scottish Ministers may, by regulations, provide that a person who falls within a class of persons specified in the regulations is to be released from prison early.

Operation of Provision in Reporting Period

- 7.1.5.2 The Release of Prisoners (Coronavirus) (Scotland) Regulations 2020 (SSI 2020/138)⁵¹ and the Criminal Justice (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 (SSI 2020/137)⁵² were made by Scottish Ministers and came into force on 4 May 2020, and operated for 28 days until 1 June 2020. As such, almost all of the related activity was completed within the previous reporting period, with activity concluding on the first day of this reporting period.
- 7.1.5.3 Scottish Ministers were satisfied that the release of prisoners under the regulations was a necessary and proportionate response to the effects coronavirus is having, and is likely to have, on prisons generally, for the purpose of protecting the security and good order of prisons and the health, safety and welfare of prisoners and those working in prisons.
- 7.1.5.4 The Scottish Government engaged with a range of different partners prior to commencement of the provisions including: COSLA, SOLACE, the Association of Local Authority Chief Housing Officers, Social Work Scotland and relevant third sector organisations, in relation to the prisoner release measures and the potential impact it would have on community based services. Letters providing further information on the prisoner release measures were sent to a broad range of stakeholders (including: all Health Boards, Integration Joint Boards, Local Authorities, Police Scotland, and the Department for Work and Pensions) to ensure that they were kept updated on the relevant policy developments and could prepare accordingly for the release measures coming into force.

⁵¹ The Release of Prisoners (Coronavirus) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/138/contents/made>

⁵² The Criminal Justice (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 - <http://www.legislation.gov.uk/ssi/2020/137/contents/made>

- 7.1.5.5 Details of the eligibility criteria and exclusions applied, and statistics on the operation of the 4 May to 1 June 2020 process were included in the report⁵³ on the first reporting period.
- 7.1.5.6 Care was taken during the development of the regulations which are referred to at section 7.1.5.2 above, to address any potential impact in relation to domestic abuse, in light of the existing data on the instance of domestic violence and the lockdown circumstances. Particular attention was paid to how individuals whose previous offending presented usable evidence of a risk of domestic abuse could be excluded from the process in a workable, consistent and legally robust fashion (and without infringing the principles of rehabilitation of offenders). Recently published data on domestic abuse offending has been considered in this reporting period as part of the additional reporting requirements under the second Scottish Act, but as it does not disaggregate individuals who were involved in the prisoner release process (or other forms of release, or other potentially relevant circumstances), it does not facilitate robust assessment of any notional impact of the early release process.

Factors Considered to Determine Use and Continued Necessity

- 7.1.5.7 Although there had been some reduction in the prison population since the introduction of this power, prisons have also had to take steps to end visits and reduce time out of cell – which are still in place at the present time. A significant number of prison staff cannot work, due to ill health, a requirement to isolate, or as a result of a need to take care of children and family members. Taken together with the changes to prison regimes, these factors make prisons an especially challenging environment at present for prisoners, prison officers, NHS staff and others who work in prisons.
- 7.1.5.8 The Scottish Government and Scottish Prison Service held detailed discussions over the current and potential future impact that coronavirus may have on the operation of prisons, including the effect on staffing, and the conditions for prisoners. After careful assessment of the capacity of the prison estate, the additional flexibility required to properly respond to health concerns, and the necessary staffing levels to maintain safe and effective operations, it was agreed with the Chief Executive of the Scottish Prison Service, that releasing around 300 to 450 short-sentence prisoners would provide a significant improvement to operating conditions – whilst still being proportionate to the current situation.
- 7.1.5.9 The Scottish Government is engaging with the Scottish Prison Service on a regular basis in relation to the use of these powers and their impact. The Scottish Government is also regularly liaising with stakeholders who are most impacted by the prisoner release measures. The Scottish Prison Service monitored the number of prisoners that were released and which

⁵³ Coronavirus Acts: first report to Scottish Parliament - <https://www.gov.scot/publications/coronavirus-acts-two-monthly-report-scottish-parliament/>

prisons they were released from. The statistics on the release process were published on the Scottish Prison Service website.⁵⁴

- 7.1.5.10 The associated prisoner release regulations were time limited and they only allowed prisoners to be released over a 28 day period. The Release of Prisoners (Coronavirus) (Scotland) Regulations 2020 (SSI 2020/138) were made under the expedited procedure, but were subsequently recommended for approval by the COVID-19 Committee on 21 May 2020. The Criminal Justice (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 (SSI 2020/137) were made under the negative procedure and the COVID-19 Committee was content not to make any recommendations to the Scottish Parliament on this SSI.
- 7.1.5.11 The Scottish Government assessed the potential impact of the early release action on human rights, and determined that the effect of the coronavirus outbreak necessitated the release of lower-risk prisoners, while ensuring public safety. The impact of coronavirus in prisons (both on prison staff and prisoners) created a notional risk of a breach of the Article 3 European Convention on Human Rights of prisoners and prison staff and it was assessed that the release of prisoners was therefore required as a means of safeguarding the Convention rights of prisoners and prison staff. In parallel, the release of prisoners created a notional risk of contravening the Convention rights of a member of the public who is harmed by a released prisoner. These were reflected in Equality Impact Assessment statements for the first Scottish Act, and the subsequent SSIs.
- 7.1.5.12 In order to mitigate possible risk, strict limits and numerous exclusions were used to restrict eligibility for the early release process, through the detail of the first Scottish Act, and in the regulations (SSI 2020/138). These included specific exclusions for prisoners sentenced for sex offences, harassment, recent domestic abuse offences and aggravations, and to post-release supervision. The legislation set out further safeguards against this by enabling Governors to prevent the release of prisoners who pose an immediate risk of harm to an identified individual. The early release regulations made specific provision so that they include the release of young offenders. Those in prison custody who are designated as young offenders were considered as eligible for release providing that they fulfilled the rest of the criteria set out in the regulations.
- 7.1.5.13 The Scottish Government considers that the release process was a proportionate measure to achieve the intended and necessary reduction in the prison population. However, if circumstances were to change and the prison population were to increase significantly in future, it might be necessary to review this position. The Scottish Government must keep in mind that this action is being made to ensure safety and good order within prisons, and to protect the health of prison staff and prisoners. Any decisions on future release of additional prisoners would be made with regard to the

⁵⁴ Scottish Prison Service: Covid-19 Information Hub - <https://www.sps.gov.uk/Corporate/Information/covid19/covid-19-information-hub.aspx>

legislative requirements contained in the first Scottish Act, and through very careful assessment in partnership with the Scottish Prison Service.

7.1.6 Section 7 and schedule 6, part 2 – Freedom of Information

Description of Provision

- 7.1.6.1 Prior to the repeal of the provisions mentioned below, the provisions extended the statutory deadlines under the Freedom of Information (Scotland) Act 2002 (FOISA) for responding to Freedom of Information (FOI) requests and reviews by an additional 40 working days; gave the Scottish Ministers the power, by direction, to specify circumstances where a Scottish public authority could extend that deadline; gave the Commissioner discretion to decide that, where failure to comply with a deadline was due to the effect of coronavirus, an authority had not failed to comply; and enabled the Commissioner and other Scottish public authorities to issue notices by electronic means.

Operation of Provision in Reporting Period

- 7.1.6.2 Paragraphs 3 and 4 of schedule 6 extended the deadlines for responding to FOI requests and reviews by an additional 40 working days. The extension applied to both new requests and those outstanding when the first Scottish Act came into force, but the requirement within FOISA to comply promptly with requests was otherwise unchanged. These provisions were repealed by the second Scottish Act and therefore were not in operation in this second reporting period.
- 7.1.6.3 The power of the Scottish Ministers, as conferred by paragraph 5 of schedule 6, was repealed in the first reporting period and therefore was not in operation in this second reporting period.
- 7.1.6.4 Where an appeal is made to the Commissioner in respect of a failure to comply with a relevant deadline, paragraph 6 of schedule 6 gives the Commissioner discretion to decide that a Scottish public authority has not failed to comply in certain circumstances. As passed, the Commissioner could exercise this discretion where the failure was due to the effect of coronavirus. The second Scottish Act amended paragraph 6 so that the Commissioner could also take into account the effects of repealing paragraphs 3 and 4. It also amended paragraph 6 so that the public interest in prompt compliance is the primary consideration in deciding whether a failure was reasonable in all the circumstances. Information will be held by the Commissioner.
- 7.1.6.5 Paragraph 7 of schedule 6 allows the Commissioner and other Scottish public authorities to issue notices by electronic means. Information in respect of the use of this element of the provision will be held by the Commissioner and by individual authorities.

Factors Considered to Determine Use and Continued Necessity

- 7.1.6.6 While the rate of coronavirus infection has reduced, physical distancing measures remain in place and Scotland's route map does not anticipate non-essential indoor office spaces opening until phase three, but even then, home-working is expected to be the default position. As a result, Scottish public authorities may continue to experience significant disruption that may impact on their ability to respond to FOI requests for some time, so the power at paragraph 6, conferring discretion on the Commissioner, remains necessary.
- 7.1.6.7 The Commissioner's office is likely to require to operate a level of remote working for some time, so the power at paragraph 7, to issue notices electronically, remains necessary to enable decisions to be issued and to reduce disruption to the Commissioner's statutory functions. Other authorities are likely to benefit in the same way.

7.1.7 Section 8 and schedule 7, paragraphs 1 to 5 - Social security

Description of Provision

- 7.1.7.1 These provisions relax timescales which apply to clients seeking (and Social Security Scotland making) a redetermination, and clients bringing an appeal before the First-tier Tribunal for Scotland, where normal timescales cannot be met for reasons related to coronavirus. Other provisions modify timescales for making applications where these have not been able to be met directly as a result of coronavirus.

Operation of Provision in Reporting Period

- 7.1.7.2 The provisions have been commenced. External guidance for members of the public is available via the Agency's website⁵⁵ and at www.mygov.scot/benefits/. Social Security Scotland, in consultation with the Scottish Government, has also developed guidance for staff on the practical implementation of the provisions. Where a client has cited disruption caused by coronavirus as the reason for a late application or late request for an appeal or redetermination, Social Security Scotland has used the powers to allow the late application or request to be considered. There have also been occasions where Social Security Scotland has extended its timescales for redetermination where an appeal was received after the 31 day deadline for submission had passed.

Factors Considered to Determine Use and Continued Necessity

- 7.1.7.3 The key factor in the continuing necessity of these provisions is the continued disruption created by coronavirus. Where this is likely to have an impact on people's ability to make applications for benefits in timely fashion or make a request for a redetermination or appeal, including to gather and

⁵⁵ Social Security Scotland website - <https://www.socialsecurity.gov.scot/>

receive supporting information, or where it could have an impact on the timing of their award of a qualifying benefit, there will be a need for these provisions. Similarly, where the continued disruption created by coronavirus impacts on Social Security Scotland's ability to process redeterminations, or on clients' ability to gather information requested in support of their redetermination, the extended timelines for redetermination should remain in place.

7.1.7.4 The Agency is however required to make the redetermination as soon as reasonably practicable within the extended redetermination period; this provides a safeguard to ensure that clients' rights to receive a decision as quickly as possible and subsequently appeal rights to the First-tier Tribunal, are respected.

7.1.7.5 During the period in which provisions have been in force, Social Security Scotland has extended its timescales for redeterminations on 8 occasions, taking an average of 38 days to complete these cases. A significant proportion of this additional time was required by clients citing coronavirus as a reason for being unable to provide evidence earlier. There has also been one instance where an appeal was received after the 31 day deadline for submission and the First-tier Tribunal for Scotland accepted this appeal, citing coronavirus as a factor. The review of the operation of the provisions in the period indicates that these extensions are providing some benefit to clients, in helping them access their rights despite the impact of coronavirus. The latitude for extending timescales is only being used when absolutely necessary as Social Security Scotland's aim remains to process cases within target deadlines whenever possible. However, the Agency is of the view that there remains a need to have these extensions in place as a contingency against further disruption to services and clients' circumstances, for example, if there were a resurgence of the virus.

7.2 Second Scottish Act

7.2.1 [Section 2, schedule 1, Part 1: Student residential tenancy: termination by tenant](#)

Description of Provision

7.2.1.1 This makes provision in relation to tenancies for students in halls of residence and Purpose Built Student Accommodation (PBSA). There is a 7 day notice period for those who have already entered into a student residential tenancy agreement and have occupied the property; and a 28 day notice period for those who have already entered into a student residential tenancy but have not yet occupied the property and the agreement was entered into while the second Scottish Act is in force. Students can only terminate tenancies for a reason relating to coronavirus.

Operation of Provision in Reporting Period

- 7.2.1.2 The Scottish Government understands from informal consultation with stakeholders that the seven day notice period has been utilised by students who had returned home prior to lockdown and were no longer occupying their property, and by students who wished to return home prior to the end of their contract. This provision has allowed students to end their contract earlier than existing arrangements would have allowed had these provisions not been in place. This is of particular importance given that colleges and universities adopted alternative learning models from face to face teaching in response to coronavirus.
- 7.2.1.3 The 28 day notice period has given students looking to find suitable accommodation for the next academic year reassurance that, should restrictions continue or more restrictive measures be re-introduced, either locally or nationally, that prevent students from taking up their accommodation as planned, they will not be held liable to pay for accommodation they are not able to use.
- 7.2.1.4 The Scottish Government is working closely with members of the Student Accommodation Group to develop and issue a survey to accommodation providers to gather further evidence on the extent of use of the provisions ahead of future reporting periods, and to inform ongoing monitoring of implementation of the provision.

Factors Considered to Determine Use and Continued Necessity

- 7.2.1.5 The provisions remain necessary to ensure that should restrictions continue or more restrictive measures be re-introduced, either locally or nationally, that prevent students from taking up their accommodation as planned, they will not be held liable to pay for accommodation they are unable to use.
- 7.2.1.6 Student accommodation providers set their own contract terms within tenancy agreements with students and terms will vary across the sector. Given the nature of student residential tenancies, contracts typically run for the entire length of the contract, with no provision for early release. The continuation of the notice to leave periods will be necessary to ensure students are not disadvantaged by any further measures required in response to coronavirus.
- 7.2.1.7 The Scottish Government assessed the potential impact of these provisions on human rights, children's rights and equalities prior to the introduction of the legislation and continues to keep these rights under review when considering their continued necessity. The Scottish Government's view is that the temporary nature of the provisions continue to strike an appropriate balance between the rights of student accommodation providers and the rights of the students during the pandemic.

7.2.2 **Section 2, schedule 1, Part 2: Tenancies: pre-action requirements for order for possession or eviction order on ground of rent arrears**

Description of Provision

7.2.2.1 The provisions provide Scottish Ministers with the power to specify pre-action requirements for private landlords seeking to end a private tenancy due to rent arrears, where those arrears relate to the period during which paragraph 4 of schedule 1 of the second Scottish Act is in force. The First-tier Tribunal for Scotland (Housing and Property Chamber) must take account of the extent to which a landlord has complied with the pre-action requirements when deciding whether it is reasonable to grant an order for repossession.

Operation of Provision in Reporting Period

7.2.2.2 The provisions were in force during the reporting period but the regulation making powers were not used in the reporting period. Regulation making powers are being considered for use.

Factors Considered to Determine Use and Continued Necessity

7.2.2.3 Schedule 1 of the first Scottish Act makes most grounds for repossession in the private rented sector discretionary, including for rent arrears. This temporarily changed the original position whereby the First-tier Tribunal for Scotland (Housing and Property Chamber) must grant a repossession order if the level of arrears is in accordance with the criteria laid out in the relevant legislation. This change ensures that the Tribunal considers the reasonableness of making a repossession order during the coronavirus outbreak.

7.2.2.4 The introduction of regulations under the provision would temporarily set pre-action requirements that will apply where all or part of the rent arrears have originated in the period during which paragraph 4 of schedule 1 of the second Scottish Act is in force. The extent to which a landlord has complied with these requirements must be taken into account by the First-tier Tribunal for Scotland (Housing and Property Chamber) when deciding whether it is reasonable to grant a repossession order.

7.2.2.5 The introduction of regulations would formalise the steps landlords should take in relation to working with tenants to manage arrears prior to seeking repossession during the coronavirus pandemic.

7.2.2.6 The Scottish Government has assessed the potential impact of these provisions on human rights, children's rights and equalities and considers the introduction of pre-action requirements will have a positive impact across those with protected characteristics including women and disabled people who may have been impacted by the consequences of coronavirus. We also consider these measures support the right to adequate housing under the

International Covenant on Economic, Social and Cultural Rights by ensuring appropriate safeguards are in place to prevent unnecessary eviction.

7.2.2.7 The assessment is that the powers under section 2, schedule 1, Part 2 continue to be necessary at this time.

7.2.2.8 The Scottish Government will continue to consider the introduction of regulations that specify pre-action requirements for private landlords seeking to end a private tenancy due to rent arrears, where those arrears relate to the period during which paragraph 4 of schedule 1 of the second Scottish Act is in force

7.2.3 **Section 2, schedule 1, Part 7: Care homes**

Description of Provision

7.2.3.1 These provisions make changes to the Public Services Reform (Scotland) Act 2010 (the '2010 Act') for a limited time period to allow for the issuing of Emergency Directions and Emergency Intervention Orders.

7.2.3.2 Emergency Directions - Health Boards can make specific asks of care home providers where they believe there is a material risk to health within the care home due to coronavirus. These asks must relate directly to reducing the risk to health. Where the Health Board believes they haven't been complied with, it can, subject to the court's approval, take steps to ensure they are carried out.

7.2.3.3 Emergency Intervention Orders - Ministers may apply to the court to appoint a nominated officer to temporarily take over the operation of a care home if there is a serious risk to life, health or wellbeing within the home. Where there is an imminent and serious risk to life or health, Ministers can exercise the powers before making an application to the Court.

Operation of Provision in Reporting Period

7.2.3.4 Paragraph 16 of schedule 1 adds temporary modifications to Part 5 of the 2010 Act, adding in sections 63A and 63B.

7.2.3.5 Section 63A requires that where the Health Board considers that, for a reason relating to coronavirus, there is a material risk to the health of persons at the specified accommodation, the Health Board may issue a direction to the service provider to take specific steps. Section 63B gives Health Boards the power to act where a section 63A direction has not been complied with.

7.2.3.6 Although these powers have been commenced and are available, they have not yet been used in this reporting period. A Health Board has not yet been required to issue a direction to a care home using this legislation. Consequently, Health Boards have not had to use the power to act when said direction has not been complied with.

- 7.2.3.7 Paragraph 17 of schedule 1 inserts sections 65A and 65B into the 2010 Act.
- 7.2.3.8 Section 65A provides that Scottish Ministers may apply to a Sheriff Court or Court of Session for an Emergency Intervention Order in respect of a care home service provided at a care home which is stated in the application.
- 7.2.3.9 Section 65A subsection (2) sets out that an Emergency Intervention Order is an order which authorises the Scottish Ministers to nominate a person to act as a nominated officer. The nominated officer is authorised to (1) enter and occupy the accommodation (2) direct the provision of the care home service at the accommodation and (3) do anything that the officer considers necessary to ensure that the care home service is provided to an appropriate standard. It also requires the providers of care to comply with any direction given by the nominated officer in relation to the provision of care.
- 7.2.3.10 Subsection (7) provides that the court must make an Emergency Intervention Order if it appears there is, due to coronavirus, a serious risk to the life, health or wellbeing of people at the care home.
- 7.2.3.11 Section 65B provides that Scottish Ministers may make further provisions to the Emergency Intervention Orders by regulations. Those regulations are subject to the 'made affirmative' procedure and will last for 28 days unless they are laid before Parliament and approved.
- 7.2.3.12 As of yet, Scottish Ministers have not made an application to the courts for an Emergency Intervention Order in relation to coronavirus under these powers. Social Care and Social Work Improvement Scotland ('the Care Inspectorate') updates Ministers of any care home providers with which they have serious concerns and provide regular updates to them to enable emergency action to be taken if required.
- 7.2.3.13 Powers under section 65B have been used in the reporting period. The Care Homes Emergency Intervention Orders (Coronavirus) (Scotland) Regulations 2020⁵⁶ (SSI 2020/201) came into force on 3 July 2020. They make further provisions to the emergency intervention powers set out under section 65A, including: enabling the nominated officer to delegate actions to others; allowing Scottish Ministers to obtain information from relevant bodies; and limiting claims for compensation.

Factors Considered to Determine Use and Continued Necessity

- 7.2.3.14 Scotland's care infrastructure and the robust inspection regime of the Care Inspectorate is such that when these measures were implemented it was considered that they would only need to be exercised in exceptional circumstances.

⁵⁶The Care Homes Emergency Intervention Orders (Coronavirus) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/201/contents/made>

- 7.2.3.15 Therefore, the fact the powers have not been used, does not mean that the rationale behind the implementation of these measures has ceased to be valid.
- 7.2.3.16 While the virus is still present, and while there is still the possibility of a resurgence of the virus, it is the opinion of the Scottish Government that these powers should remain in place as they provide assurance to those who depend on care services, their families, and the staff that deliver care, that additional oversight and support is available in the rare circumstances that it may be required.
- 7.2.3.17 The legislation builds on established powers and ensures that immediate action can be taken if continuity of care is jeopardised. Having these powers available permits Health Boards and Scottish Ministers to take more responsive action if justified and necessary.
- 7.2.3.18 Additionally, the availability of these powers enables Ministers to act imminently to safeguard the life, health and wellbeing of care homes residents – provided the tests for intervening are met. The nature of the pandemic means circumstances can quickly change and these powers mean Ministers are in a position to act swiftly.
- 7.2.3.19 While coronavirus is still present in the population and there is still the possibility of a resurgence of the virus, the assurance these powers provide is considered to be necessary and proportionate.

7.2.4 Section 2, schedule 1, Part 8: Power to purchase care home services and care at home providers

Description of Provision

- 7.2.4.1 The provisions in section 2 and paragraphs 18 to 20 of schedule 1, part 8 set out temporary powers available to Local Authorities to purchase, by agreement, a care home or care at home services. It also sets out the powers available to Health Bodies (a Health Board, the Common Services Agency and Health Improvement Scotland) to acquire a care home, by agreement, on behalf of Scottish Ministers.
- 7.2.4.2 Circumstances where this can take place are where, for a reason relating to coronavirus: the provider is in serious financial difficulty; the Local Authority or health body is satisfied there is a threat to the life, health or wellbeing of people receiving the service; or where a provider has recently stopped providing the services.
- 7.2.4.3 These are for voluntary acquisitions only and do not grant powers for compulsory purchases.
- 7.2.4.4 Paragraph 19 also provides that the health body must comply with a written direction by Scottish Ministers.

Operation of Provision in Reporting Period

- 7.2.4.5 Paragraph 18 provides that a Local Authority may acquire, by agreement, a care home service, a care at home service and any asset or liability of those services under the circumstances outlined in paragraph 20.
- 7.2.4.6 Paragraph 19 provides that a health body (a Health Board, the Common Services Agency and Health Improvement Scotland) may acquire, by agreement, a care home service and any asset or liability of that provider on behalf of Scottish Ministers under the circumstances in paragraph 20.
- 7.2.4.7 Paragraph 19 also provides that the health body must comply with a written direction by Scottish Ministers. Directions must be published and they can be varied or revoked by a subsequent direction.
- 7.2.4.8 Paragraph 20 describes the circumstances in which the Local Authority can acquire the provider of a care home or care at home services (or any asset or liability of that provider) and a health body can acquire the provider of a care home service (or any asset or liability of that provider). These are set out in 7.2.4.2 above.
- 7.2.4.9 These powers have not been used in the reporting period. Neither a health body or a Local Authority has acquired a care home, nor has a Local Authority acquired a care at home service, under these powers. Scottish Ministers have not directed a health body to acquire a care home under these powers.

Factors Considered to Determine Use and Continued Necessity

- 7.2.4.10 In addition to the factors that were considered as set out at sections 7.2.3.14 to 7.2.3.17 above, the following factors were also taken into consideration in the review. The legislation builds on established powers and ensures that immediate action can be taken if continuity of care is jeopardised. These emergency provisions create powers in relation to the acquiring of care homes and care at home services. These types of transactions require detailed due diligence exercises to be carried out as well as practical discussions around matters such as budget, transition, employment considerations and property legalities. These matters require time. If action is required, the extension of these emergency provisions would also provide much clarity and benefit.
- 7.2.4.11 Additionally, the availability of these powers enables a Local Authority or a relevant health body to act to acquire a care home service or a care at home service in the circumstances set out in paragraph 7.2.4.2 above and enables a Local Authority or relevant health body to act to safeguard the interests of the residents of a care home. Equally, it also ensures a Local Authority can quickly put in place continuity of care for those who receive a care at home service.

7.2.4.12 While coronavirus is still present in the population and there is still the possibility of a resurgence of the virus, the safety net and assurance these powers provide is still needed.

7.2.5 Section 2 schedule 1, Part 9: Care homes: further provisions

Description of Provision

7.2.5.1 'Section 2, schedule 1, Part 9 - care homes: further provisions' describes two provisions, which extend on the reporting work already undertaken by the Care Inspectorate in relation to care homes for the duration of the emergency period. The provisions introduce the publication of two reports that are laid before the Scottish Parliament: a fortnightly report on inspections of adult care homes; and a weekly report on the number of deaths notified by care home service providers. Both provisions were introduced following non-Government amendments at Stage 2 of the Bill.

Operation of Provision in Reporting Period – Reporting on Care Home Services Inspections

7.2.5.2 Section 53 of the Public Services Reform (Scotland) Act 2010 ('the 2010 Act') provides that Social Care and Social Work Improvement Scotland (otherwise known as the Care Inspectorate) may inspect registered care services, and sets out the purpose of inspections. Section 2, schedule 1, part 9 of the second Scottish Act adds section 53A to the 2010 Act, requiring that the Care Inspectorate must lay a report before Parliament every two weeks during the emergency period. These reports must set out which care home services it has inspected as well as the findings of those inspections.

7.2.5.3 This provision has been exercised from the date that the second Scottish Act came into force, with the first of the fortnightly reports being laid before Parliament on 10 June 2020. The Care Inspectorate continues to lay this report before Parliament every second Wednesday. The reports⁵⁷ are also available on the Care Inspectorate website.

7.2.5.4 The report findings now include indicators across three themes specific to coronavirus. These new quality indicators are now augmented in the Care Inspectorate's quality framework for Care Homes for Adults and Older People, and are also now included in the fortnightly report on inspections as follows: people's health and wellbeing are supported and safeguarded during the COVID-19 pandemic, infection control practices support a safe environment for both people experiencing care and staff, and staffing arrangements are responsive to the changing needs of people experiencing care.

Factors Considered to Determine Use and Continued Necessity

⁵⁷ Reports to Scottish Parliament on Care Inspectorate inspections - <https://www.careinspectorate.com/index.php/publications-statistics/139-corporate-annual-reports-accounts/reports-to-scottish-parliament-on-care-inspectorate-inspections>

- 7.2.5.5 The power has been used in this reporting period. In implementing this provision, the Care Inspectorate has had to develop and implement new processes to comply with the requirements. There have been clear advantages in taking a more targeted, intelligence-led and risk-based approach, working collaboratively with Health and Social Care Partnerships, clinical oversight teams, public health teams and Healthcare Improvement Scotland in both sharing information to prioritise services for inspection, and in undertaking the inspections themselves.
- 7.2.5.6 Where the Care Inspectorate has identified serious concerns in services, it has returned quickly to the care home to check and report on improvements. This has provided powerful evidence of the value of robust, independent scrutiny and assurance. This process has also been helpful in getting information into the public domain more quickly to provide assurance to Ministers, Parliament and the public at a time where levels of concern about the safety and wellbeing of care home residents is understandably high. It has enabled the Care Inspectorate to highlight more quickly the valuable work it has been doing.
- 7.2.5.7 The reports which are provided to the Scottish Parliament present a useful overview of services inspected and their findings, providing the Care Inspectorate with the opportunity to make further enquiries if needed. The nature of reporting under the second Scottish Act requires a quick turnaround. However, the Care Inspectorate is prepared to continue with the current approach as long as is required.
- 7.2.5.8 There continues to be an increased level of interest and scrutiny of care home issues. The operation of the provision in the reporting period was proportionate, and the status of the provisions is appropriate.

Operation of Provision in Reporting Period - Reporting on Coronavirus Deaths in Care Homes

- 7.2.5.9 Section 2, schedule 1, Part 9 of the second Scottish Act inserts section 79B into the Public Services Reform (Scotland) Act 2010 ('the 2010 Act'), which introduces new duties about the reporting of deaths in care homes. Section 79A of the 2010 Act requires that care home service providers must provide certain information to the Care Inspectorate each day in relation to the numbers of deaths which have occurred in a care home service, whether caused by, or attributable to, coronavirus or not. The Care Inspectorate must prepare a report setting out this information and share it with the Scottish Ministers.
- 7.2.5.10 This provision has been exercised from the date that the second Scottish Act came into force, with the first of the weekly reports being laid before Parliament on 10 June 2020. This contained data from 25 May 2020 onwards. The Scottish Ministers continue to lay this report before the Scottish

Parliament each Wednesday and information relating to this is published on the Scottish Government website⁵⁸.

Factors Considered to Determine Use and Continued Necessity

- 7.2.5.11 The power has been used in the reporting period. Most care homes have continued to notify the Care Inspectorate of deaths promptly. A positive outcome of having this specifically set out in the legislation is to remind care homes of the importance of reporting during this period. The Scottish Government and the Care Inspectorate and others have depended on accurate and timely reporting from providers.
- 7.2.5.12 The Care Inspectorate's view is that death notifications will be a key element in its ongoing monitoring for any resurgence of coronavirus. The specific legislation in place to underpin that removes any ambiguity that may have existed in the 2010 Act.
- 7.2.5.13 These provisions are designed to provide assurance to Scottish Ministers, to the Scottish Parliament, the public and health and social care workforce, that the quality of care services is being properly scrutinised and supported during the emergency period. Care homes for older people are of a particular focus during the pandemic, although the provisions are relevant to all registered care home services.
- 7.2.5.14 The operation of the provision in the reporting period to provide for the weekly reporting has offered greater transparency on the number of deaths in these settings, and coronavirus related deaths in care homes while the threat from the virus remains. The operation of the provision has been proportionate and the status is appropriate.
- 7.2.5.15 The Care Inspectorate, as the independent scrutiny and improvement body responsible for the regulation and inspection of care and support services in Scotland, is subject to the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012.
- 7.2.5.16 The Care Inspectorate has published its Equality Outcomes, Mainstreaming Report and Action Plan⁵⁹, setting out its approach to Equality Impact Assessments, obligations as corporate parents, and other duties.
- 7.2.5.17 The Care Inspectorate is also a signatory and full participant to the National Preventive Mechanism (NPM), in accordance with the Optional Protocol to the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

⁵⁸Coronavirus (COVID-19): adult care homes: additional data - <https://www.gov.scot/publications/coronavirus-covid-19-additional-data-about-adult-care-homes-in-scotland/>

⁵⁹Equality Outcomes, Mainstreaming Report and Action Plan - <https://www.careinspectorate.com/images/documents/5046/Equalities%20report%202019-21.pdf>

7.2.5.18 The Scottish Government will keep the impact of the operation of these provisions under review.

7.2.6 **Section 2 and schedule 1, part 10 - Marriage and civil partnership**

Description of Provision

7.2.6.1 Schedule 1, Part 10, paragraph 24 requires the Scottish Ministers, in conjunction with the Registrar General of Births, Deaths and Marriages for Scotland, to take such steps as they consider necessary to ensure that the solemnisation of marriages and registration of civil partnerships continue to be available in Scotland whilst paragraph 24 is in force. It also requires the Scottish Ministers to report on the steps taken and on the number of marriages and civil partnerships that have taken place.

Operation of Provision in Reporting Period

7.2.6.2 Article 12 of the European Convention on Human Rights protects the right of men and women of marriageable age to marry and to start a family. The Scottish Ministers and the Registrar General have taken steps, as outlined in more detail below, to ensure that the solemnisation of marriages and the registration of civil partnerships continues to be available in Scotland during the emergency period.

7.2.6.3 Information is included below on the number of marriages and civil partnerships conducted during specified periods. Further marriages and civil partnerships may have taken place which at the time of reporting, had not yet been entered onto the IT system due to a delay between the occurrence of the event and the return of the schedule.

7.2.6.4 The Registrar General put in place measures to ensure marriages and civil partnerships, where there was a pressing need, could take place from 27 March until 28 June 2020 inclusive. Examples of pressing need are where one of the parties:

- is seriously ill;
- is about to be posted overseas in the Armed Forces; and
- has a marriage or civil partnership visa which is about to expire.

7.2.6.5 A total of 58 marriages and 1 civil partnership were conducted during this period.

7.2.6.6 With effect from 29 June to 9 July 2020 inclusive, the Scottish Government eased restrictions, enabling more marriage ceremonies and civil partnership registrations to take place outdoors with limited numbers and households. There were 136 marriages and 2 civil partnerships conducted during this period.

- 7.2.6.7 The Scottish Government worked closely with the Registrar General on the resumption of marriages and civil partnerships under phase two of the route map.
- 7.2.6.8 With effect from 10 July to 14 July 2020 inclusive, the Scottish Government further eased restrictions enabling more marriage ceremonies and civil partnership registrations to take place outdoors with limited numbers and households. In this period, indoor marriages were also allowed. There were 46 marriages conducted during this period.
- 7.2.6.9 With effect from 15 July 2020, the Scottish Government further eased restrictions enabling more marriage ceremonies and civil partnership registrations to take place indoors and outdoors with limited numbers.
- 7.2.6.10 The Scottish Government published the ‘Coronavirus (COVID-19): wedding ceremonies and civil partnership registrations guidance’⁶⁰ on its website to help people planning to get married or form a civil partnership in Scotland, those responsible for venues that may host such events, and the celebrants who conduct them. The most recent guidance at the time of reporting was published on 15 July 2020. Guidance⁶¹, available on the National Records of Scotland website, has been issued by the Registrar General for those intending to get married or enter a civil partnership during the emergency period. The Registrar General has also issued guidance to Local Authority registrars. Measures have been put in place in accordance with guidance to reopen some registration offices.
- 7.2.6.11 The Scottish Government has engaged with religious and belief bodies on the impact of the pandemic, including the impact on marriages and civil partnerships. The easing of restrictions benefitted individuals of religion or belief as it enables more individuals to exercise their religious rights within a place of worship. It also enables people of faith to marry and begin their married life together. In addition, for reasons of faith, some religion or belief bodies require more people to attend a ceremony than the legal minimum of five attendees. Some religious and belief bodies also have a requirement or preference for ceremonies to take place indoors in a place of worship. This is enabled by the easing of restrictions.
- 7.2.6.12 A further report on marriages and civil partnerships will be sent by the Scottish Ministers to Parliament in due course. In line with schedule 1, Part 10, paragraph 24, this will provide information on the number of marriages solemnised and civil partnerships registered during the reporting period from 27 May to 31 July 2020.

Factors Considered to Determine Use and Continued Necessity

⁶⁰ Coronavirus (COVID-19): wedding ceremonies and civil partnership registrations
<https://www.gov.scot/publications/coronavirus-covid-19-guidance-for-small-marriages-and-civil-partnership-registrations/pages/purpose-of-guidance/>

⁶¹ National Records of Scotland Guidance - Registering Civil Partnership in Scotland
<https://www.nrscotland.gov.uk/registration/registering-civil-partnership-in-scotland>

7.2.6.13 In view of the duties paragraph 24 places on the Scottish Ministers and the Registrar General, the provisions continued to be necessary.

7.2.7 **Section 3 and schedule 2, part 1 - Criminal Justice: Fixed Penalty Notices under the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020**

Description of Provision

7.2.7.1. Schedule 2, Part 1, paragraph 7 amended regulation 9 of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 to change the age to 18. As a consequence, a police officer will only be able to issue a Fixed Penalty Notice under these regulations where the officer reasonably believes that the person is aged 18 or over.

Operation of Provision in Reporting Period

7.2.7.2. Police Scotland publishes data on the enforcement of the coronavirus legislation⁶². Further information on the operation and status of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 is included at section 7.3.5 below.

Factors Considered to Determine Use and Continued Necessity

7.2.7.3. This provision amended the above noted regulations. So long as these regulations remain in force and allow Fixed Penalty Notices to be issued, it is appropriate to continue this provision in order that police officers are only able to issue a Fixed Penalty Notice under these regulations, where the officer reasonably believes that the person is aged 18 or over.

7.2.8 **Section 5 and schedule 4, part 4 - Care services: giving of notices by the Care Inspectorate**

Description of Provision

7.2.8.1 This provides the Care Inspectorate with powers to send formal notices to registered care service providers by electronic means, in addition, to normal post, for the duration of the emergency period.

7.2.8.2 This power also enables notice to be given to a person providing, or seeking to provide, a care service and covers:

- an individual;

⁶² COVID-19 Police Scotland Response - <https://www.scotland.police.uk/about-us/covid-19-police-scotland-response/enforcement-and-response-data/>

- a body corporate, to a director, secretary or other similar officer of that body or to a manager (or other similar officer) of the care service provided by that body, or
- a firm, to a partner of that firm.

7.2.8.3 Under normal circumstances, formal notices are issued via normal postal services or are hand delivered. Presently, this is not possible due to the Care Inspectorate following public health guidance, and staff not having access to premises to carry out this function or printing services. This provision has enabled the Care Inspectorate to issue any notice by email, or to publish more generally on a website, when required, thereby expediting the process, at a time when it is increasingly important to deliver notices in a timely, accessible and safe manner.

Operation of Provision in Reporting Period

7.2.8.4 This power has been used by the Care Inspectorate in relation to 226 matters for the issuing of notices relating to registration, variation of conditions of registration and enforcement action.

7.2.8.5 This has been seen as an important legislative change from the point of view of the Care Inspectorate. During the coronavirus pandemic the Care Inspectorate offices have been closed (and remain so at the time of reporting).

7.2.8.6 For this reason, staff have not been able to access printers to enable hard copy correspondence to be issued. Nevertheless, the accessing of postal services would still have been difficult as would the giving of notice by hand delivery, which would have necessitated face-to-face contact. In the absence of this legislative change, the Care Inspectorate would have delivered formal notices by email and would have argued strongly that it did constitute effective delivery. The amendments that have been introduced put the position beyond doubt.

Factors Considered to Determine Use and Continued Necessity

7.2.8.7 The changes to the identities of individuals to whom a notice intended for a body corporate may be given, has been an essential change from the point of view of updating section 101 of the Public Service Reform (Scotland) Act 2010. This has made it fit for purpose in today's environment, regardless of coronavirus.

7.2.8.8 The Scottish Government's view is that this provision will continue to be necessary for as long as there is not as near-normal office access and similarly, as near-normal access to postal services. This will continue to be kept under review.

7.2.8.9 The Care Inspectorate, as the independent scrutiny and improvement body responsible for the regulation and inspection of care and support services in Scotland, is subject to the Equality Act 2010 (Specific Duties) (Scotland)

Regulations 2012. See additional information regarding this at section 7.2.5.16 and 7.2.5.17 above.

7.2.8.10 Article 8 of the European Convention on Human Rights provides for the right to respect for private and family life. This right is also engaged in relation to private correspondence. Electronic sending under the new provision hinges on a person's willingness to receive the communication in that manner, and so is compatible with the European Convention on Human Rights. If a person demonstrates an unwillingness to receive communications from the Care Inspectorate in this manner, then other delivery options may be pursued.

7.2.8.11 The impact of the operation of this provision will continue to be reviewed.

7.3 UK Act

7.3.1. Section 10 and schedule 9 - Temporary modification of mental health legislation

Description of Provision

7.3.1.1 The provision makes temporary changes to mental health legislation and it aims to ensure that people can continue to be treated and cared for in a way which both respects their rights, and maintains safeguards. These temporary changes will continue to be compliant with human rights obligations.

Factors Considered to Determine Use and Continued Necessity

7.3.1.2 The provisions have not yet commenced.

7.3.1.3 Mental health legislation in Scotland provides for rigorous safeguards in respect of individuals' human rights which include that any function should be carried out for the maximum benefit of the patient, with the minimum necessary restriction on the freedom of the patient. During the passage of the Bill, Ministers were clear that these temporary changes would be brought in only when absolutely necessary.

7.3.1.4 The temporary provisions aim to provide additional flexibility to enable services to cope with significant staff shortages whilst maintaining appropriate safeguards for patients and to help support the continued safe running of compulsory care and treatment services under mental health legislation.

7.3.1.5 In order for Scottish Ministers to take a view on appropriate and timely commencement of the mental health provisions, the Scottish Government has been clear that there is an ongoing need to collate and review a range of evidence including NHS workforce information showing the overall and coronavirus-related staff absence rate across NHS Boards. In addition, the Scottish Government is working closely with the Mental Welfare

Commission, the Mental Health Tribunal for Scotland, the Royal College of Psychiatrists and Social Work Scotland. The Mental Welfare Commission has a statutory duty to monitor the use of the Scottish Government's mental health legislation and it will ensure that the necessary data continues to be collected. Also, through its oversight group, the Mental Welfare Commission will be in a position to scrutinise and monitor the use of these emergency powers, if ever commenced.

- 7.3.1.6 At the most recent meeting of stakeholders, all participants reported an increasing level of demand on mental health services over recent weeks, both in terms of support services for those with poor mental wellbeing, but also on psychiatric services from people with more severe mental ill health. While services are currently coping with increasing levels of activity under mental health legislation, there was concern that services would be in a more vulnerable position if a resurgence of the virus were to occur at levels similar to the first wave. In practice, this could mean the potential for significant reductions in staff numbers at a time when there are increased demands on already busy mental health services. Stakeholders also recognised that the mental health impacts of this epidemic and associated lockdown restrictions may not be fully felt or understood for some months to come. Therefore, it is necessary to retain these provisions overall to provide additional flexibility in the event of a resurgence of the virus.
- 7.3.1.7 Mental health legislation in Scotland already provides for rigorous safeguards in respect of individuals' human rights. Should the amendments to mental health legislation ever require to be commenced, consideration has been given to the potential for impacting on an individuals' human rights. We recognise the balancing exercise involved in considering competing human rights and this would remain during the period of the pandemic with Article 2 (the right to life) considerations being paramount. We acknowledge that there is a risk that the relaxing of measures required for admission, and the increase in the length of time patients can be detained could be argued to have a detrimental impact on this protected group.
- 7.3.1.8 However, these temporary changes to mental health legislation are intended to ensure that people can continue to be treated and cared for in a way which both respects their rights and maintains safeguards while ensuring that services can better cope with staff shortages. Careful consideration was given as to how this could be achieved and the temporary measures are not about making it easier to detain people, but to ensure those who are in need of detention under the Mental Health Act receive the care they need when they need it.
- 7.3.1.9 Section 3 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (the '2003 Act') provides that anyone exercising functions under the Act is required to discharge the function in a manner that encourages equal opportunities and in particular the observance of the equal opportunity requirements. This section remains, even if the amended provisions are being relied upon.

- 7.3.1.10 The amending provisions, if commenced, would be time limited and restricted to use only when absolutely necessary. They are not replacing existing legislation and are only to be used when adhering to the current mental health legislation is not practicable or would involve undesirable delay. Even should it become necessary to rely on the amended provisions, there is still a prescribed procedure that must be followed when an individual is being assessed, treated and/or detained.
- 7.3.1.11 In addition, these temporary measures will continue to adhere to the principles of the 2003 Act and maintain the compatibility of the 2003 Act and the Mental Health (Patients in the Community) Act 1995 with European Convention on Human Rights as well as human rights obligations.

Evidence from stakeholders suggests that it is important to retain the temporary provisions at present

- 7.3.1.12 The Chair of the Royal College of Psychiatrists wrote to the Convenor of the Equalities and Human Rights Committee on 8 June 2020, making clear they believe that there remains a real possibility that that these workforce pressures may come to bear later in the year and therefore support the retention of the temporary provisions.
- 7.3.1.13 On 10 July 2020, the Royal College of Psychiatrists wrote to Scottish Ministers stressing their commitment to ensuring the rights of people with mental ill health are protected and that they are able to access the best care and treatment. It should also be noted that these temporary provisions, if commenced, are to be permissive rather than obligatory. They are clear that evidence is already emerging of countries being impacted by a resurgence of the virus and the potential for this remains a possibility.
- 7.3.1.14 The Scottish Government will continue to engage with stakeholders in order to gather, analyse and review all available data and evidence. This will be used to inform and shape future advice to Scottish Ministers regarding any decision to commence these temporary measures.

7.3.2. Section 16 - Duty of Local Authority to assess needs: Scotland, and section 17 - Section 16: further provision

Description of Provision

- 7.3.2.1 The provisions allow for relaxation of some requirements relating to social work needs assessments.

Operation of Provision in Reporting Period

- 7.3.2.2 Sections 16 and 17 of the UK Act allow Local Authorities to dispense with particular social care assessment duties where it would not be practical to comply with them, or to do so would cause unnecessary delay in providing community care services to any person. The provision covers social care for

adults and children and support for carers. It is intended to allow Local Authorities to provide urgent care without delay.

- 7.3.2.3 The provisions allow Local Authorities the flexibility to focus on prioritising the most urgent need and protecting the lives of those who are most vulnerable while ensuring effective safeguards. Local Authorities are still expected to do as much as they can to meet people's needs. While the provisions relax assessment duties, the main duties on authorities under section 12 of the Social Work (Scotland) Act 1968 remain in place.
- 7.3.2.4 Scottish Ministers made the Coronavirus Act 2020 (Commencement No. 1) (Scotland) Regulations 2020 (SSI 2020/121)⁶³, which came into force on 5 April 2020. Statutory guidance⁶⁴ on these powers was issued on 3 April 2020, and the Deputy First Minister and Cabinet Secretary for Health and Sport wrote jointly to key stakeholders ahead of commencement which was on 5 April 2020. These communications made clear that these powers in respect of assessment duties would remain in operation only while absolutely necessary to protect people.
- 7.3.2.5 Under section 17(2)(B) of the UK Act, Scottish Ministers can direct Local Authorities to comply with any guidance which is issued under section 17(1). It is intended that this power will only be used if it is considered that the guidance requires the weight of direction, and it will not be necessary to make the direction if Local Authorities demonstrate that they are exercising their functions accordingly. As such, this direction making power has not been used in the reporting period.
- 7.3.2.6 Following liaison with COSLA and Social Work Scotland, the Scottish Government issued a survey to Chief Social Work Officers to identify use of the powers and the justification for this over the period from commencement of the above regulations on 5 April 2020 until 16 May 2020. Information from this survey was included in the first two-monthly report to the Scottish Parliament on use of powers under the Coronavirus Acts. A further survey was conducted covering the period 17 May to 3 July 2020. Responses to the second survey were received from all 31 Health and Social Care Partnership areas. Of these, four reported they were using the powers. The Local Authorities which said they were using the powers during the second monitoring period were, Dundee, East Renfrewshire, Highland and South Lanarkshire. Some are using the powers across the whole authority area and all services, while others are using the powers in a more targeted way, for example, on particular services only.
- 7.3.2.7 Reasons given for use of the powers included: to allow staff to support front line duties, to provide flexibility to enable targeting of resources on those with most needs, and to ensure people receive appropriate care promptly.

⁶³ Coronavirus Act 2020 (Commencement No. 1) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/121/made>

⁶⁴ Social care assessment guidance - <https://www.gov.scot/publications/coronavirus-covid-19-changes-social-care-assessments/>

- 7.3.2.8 Local Authorities/Health and Social Care Partnerships that used the powers highlighted their importance in enabling them to effectively manage their response to coronavirus against the backdrop of significant pressures and thus enabling the provision of urgent care and support to those most in need.
- 7.3.2.9 Local Authorities using the powers were asked to explain what arrangements were in place to ensure that these powers are being used in a way that protects human rights, including the rights of children. Responses included the continued focus on Health and Social Care Standards and Social Work protocols that emphasize human rights principles.

Factors Considered to Determine Use and Continued Necessity

- 7.3.2.10 The statutory guidance referred to above, provides a reference point and framework for Local Authorities, if they choose to implement the provisions. The statutory guidance which is referred to above states: “all assessments other than full should be regarded as temporary. These should be reviewed as well as possible at regular intervals”.
- 7.3.2.11 The guidance sets out that Local Authorities are responsible for ensuring that the powers are only used for as long as is necessary. When using these provisions, all decisions made on an individual’s social care needs should be considered alongside their individual wellbeing and fundamental human rights.
- 7.3.2.12 As was the case for the first reporting period, most Local Authorities have determined that it is not operationally necessary for them to use these powers at this stage. Two of the local authorities/Health and Social Care Partnerships that used the powers during the first monitoring period reported that they were not doing so during the second period. One of these highlighted that staffing issues were not as significant as expected. This demonstrates that Local Authorities are carefully considering use of the powers, reviewing them, and seeking to use them only where appropriate, proportionate and necessary, and subject to their governance processes.
- 7.3.2.13 Significant progress has been made in tackling the virus and the Scottish Government wants to move as soon as possible to a position where all those in need of social care receive full assessments. However, Chief Social Work Officers have highlighted the potential for increased demand for social work services, which has been suppressed during lockdown, to come forward as we transition out. A weekly activity monitoring report has been agreed with local government and Police Scotland and has been in place since April 2020. These reports highlight that child protection activity which was greatly reduced in the initial period of lockdown has now increased to slightly above that of this time last year. The Scottish Government believes that this may increase significantly as the schools and early learning and childcare system opens up over August and September 2020. The Scottish Government will monitor activity closely over this period. There are also concerns about a possible resurgence of the virus which could have a major impact on demand and requirements for social work professionals.

7.3.2.14 It is therefore appropriate at this time to maintain the flexibility for Local Authorities to use these powers in limited circumstances where it is essential that they do so in order to provide urgent care without delay. This will be subject to further monitoring and review.

7.3.3. Sections 34 and 35 - Temporary disapplication of disclosure offences: Scotland and Power to reclassify certain disclosure requests: Scotland

Description of Provision

7.3.3.1 The provisions give Scottish Ministers the power to issue a direction that dis-applies or modifies the offences under section 35 (organisations not to use barred individuals for regulated work) and section 36 (personnel suppliers not to supply barred individuals for regulated work) of the Protection of Vulnerable Groups (Scotland) Act 2007 ('the PVG Act').

Factors Considered to Determine Use and Continued Necessity

7.3.3.2 This power has not been used in this reporting period. The use of these provisions is directly linked to the ability of Disclosure Scotland to continue to provide a service to those critical workers requiring PVG scheme membership. This provision is to ensure that employers that employ someone who is barred from regulated work is not criminalised due to the inability of Disclosure Scotland to provide this check in a timely manner.

7.3.3.3 Disclosure Scotland's Leadership Team monitors the number of applications received on a daily basis, and the length of time that it is taking to process and issue disclosures. Throughout the reporting period, the vast majority of disclosures have been issued within one week of the application being received. Disclosure Scotland's Leadership Team also monitors staff absences daily, and these have not been at a level to impact adversely on the processing and issuing of disclosures. Scottish Ministers will make the decision to invoke this contingency if monitoring shows that there is a material risk of Disclosure Scotland being unable to continue to provide a service to critical workers requiring PVG scheme membership.

7.3.3.4 While at this time, the assessment is that the powers under sections 34 and 35 do not require to be used, the provision remains necessary overall as a contingency to ensure continuity of service.

7.3.3.5 The provisions are not considered to engage any children's rights, human rights or equality considerations. While the disclosure and barring services operated under the PVG Act can impact on both Article 6 and Article 8 rights, sections 34 and 35 do not change the type or extent of information that may be disclosed about a person's criminal past, nor do they affect Ministers' ability to place an individual under consideration for listing to prevent them from working with vulnerable groups. They do not undermine safeguarding, since it would continue to be an offence for a barred individual to do regulated work with children and/or protected adults.

7.3.4. Section 37 and part 2 of schedule 16 and section 38 and part 2 of schedule 17 - Temporary closure of educational institutions and childcare premises, and Temporary continuity: education, training and childcare

Description of Provision

- 7.3.4.1 The provisions provide Scottish Ministers with powers to direct the closure of educational establishments where it is necessary and proportionate, or give directions relating to the continuity of education, which may include directing the operator of an education establishment to take on additional functions, to close educational establishments, or reopen either partially or fully. Both types of direction include powers to provide that any failure to comply with a statutory duty or time limit is to be disregarded to the extent the failure is attributable to the direction; a closure direction had such effects automatically.

Operation of Provision in Reporting Period

- 7.3.4.2 The powers under section 37 and part 2 of schedule 16 have not been used in the reporting period.
- 7.3.4.3 The powers under section 38 and part two of schedule 17 have been used in the reporting period. Scottish Ministers continue to exercise their powers conferred by section 38(2) and paragraph 11(1) of schedule 17 of the UK Act, to give Educational Continuity Directions⁶⁵ to education authorities. The first such direction was given with effect from 21 May 2020 and has continued to be reviewed and renewed on a 21 day cycle. The current direction was given with effect from 23 July 2020. As required by the legislation, Scottish Ministers have had regard to advice relating to coronavirus from the Chief Medical Officer ahead of the Educational Continuity Direction being issued, and they have been satisfied that giving each direction was necessary and proportionate in response to the pandemic.
- 7.3.4.4 The ‘Coronavirus Act 2020: educational continuity direction’⁶⁶ continues to support and provide a legal basis for key measures of the Strategic Framework for Reopening of Schools and Early Learning and Childcare Provision⁶⁷ and the more recent guidance on preparing for the start of the new school term in August 2020. For example, it includes requirements on education authorities to plan and prepare for return to school when it is safe to do so (including any alterations to premises), provide education and childcare for keyworkers’ children and vulnerable children, and restricts

⁶⁵ Coronavirus Act 2020: educational continuity direction - <https://www.gov.scot/publications/coronavirus-act-2020-educational-continuity-direction/>

⁶⁶ Coronavirus Act 2020: educational continuity direction - <https://www.gov.scot/publications/coronavirus-act-2020-educational-continuity-direction/>

⁶⁷ Coronavirus (COVID-19): strategic framework for reopening schools, early learning and childcare provision <https://www.gov.scot/publications/excellent-equity-during-covid-19-pandemic-strategic-framework-reopening-schools-early-learning-childcare-provision-scotland/>

access to school buildings except for these and other prescribed purposes. It also makes provision in relation to certain statutory duties on education authorities, recognising that in the current situation, authorities cannot fully comply with these duties. The direction ensures that failures by education authorities to comply with the statutory duties or times limits specified are disregarded, to the extent they are attributable to the direction.

- 7.3.4.5 Over the course of the reporting period the Educational Continuity Directions have also applied to early learning and childcare and out of school care provided by Local Authorities (i.e. not private or third sector providers of early learning and childcare and out of school care) when required, for example, to ensure they remained closed, but authorities prepared and planned for reopening on 15 July. The power has not been exercised in relation to Further Education or Higher Education institutions in the reporting period.

Factors Considered to Determine Use and Continued Necessity

- 7.3.4.6 The provisions for educational closure directions and educational continuity directions remain necessary to allow Scottish Ministers to respond swiftly to the current public health emergency as it evolves, for example any future surge in infection which may necessitate closures of educational establishments. The current continuity direction was given effect from 23 July 2020 and as required by the UK Act, will be reviewed within 21 days, and the intention is to continue to do this in partnership between the Scottish Government and Local Government. It will be kept under review in line with the key discussions had by the Education Recovery Group, and it is expected that further directions will be given, as long as it is necessary and proportionate to do so in response to the pandemic.
- 7.3.4.7 The Scottish Government will continue to use its close links with stakeholders to monitor the impact of the Educational Continuity Direction on those affected by it, in particular, as it is closely aligned with the work of the Education Recovery Group, this will provide a broad based overview of the effect of the direction. An initial impact assessment of the Strategic Framework was published on 21 May 2020, and full impact assessments in relation to protected characteristics, children's rights and wellbeing, the Fairer Scotland duty and island communities have since been completed in collaboration with human rights organisations and key stakeholders. The Impact Assessment for 'The closure and reopening of schools as part of the COVID-19 recovery process in Scotland' was published on 30 July 2020⁶⁸ alongside the updated guidance for reopening schools which reflects the Government's updated position on being able to open schools full-time from August.

⁶⁸ Children's rights and wellbeing impact assessment: The closure and reopening of schools as part of the COVID-19 recovery process in Scotland - <https://www.gov.scot/publications/childrens-rights-wellbeing-impact-assessment-closure-reopening-schools-part-covid-19-recovery-process-scotland/>

7.3.5. Section 49 and schedule 19 - Health Protection Regulations: Scotland

Description of Provision

- 7.3.5.1 Section 49 introduces schedule 19, which gives Scottish Ministers the powers to make regulations for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination in Scotland.

Operation of Provision in Reporting Period

- 7.3.5.2 Section 49 commenced on Royal Assent and schedule 19 came into force on 25 March 2020. The powers have been used to make several sets of regulations to provide for the “lockdown”. The chronology of this is as follows:

- **25 March 2020:** The UK Act receives Royal Assent and section 49 and schedule 19 of the Act (the enabling powers for the regulations) come into force. Coronavirus (COVID-19): Business and Social Distancing Guidance⁶⁹ is also published.
- **26 March 2020:** The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (SSI 2020/103)⁷⁰ are made and come into force.
- **27 March 2020:** Physical Distancing Guidance Staying at Home and Away from Others⁷¹ is published.
- **1 April 2020:** The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment Regulations 2020 (SSI 2020/106)⁷² are made and come into force. These regulations make minor amendments to regulations 4 and 7 of the original regulations to amend cross referencing errors.
- **16 April 2020:** The regulations are reviewed. The Cabinet Secretary for Constitution, Europe and External Affairs wrote to inform the Scottish Parliament of this.

⁶⁹ Working Safely During Coronavirus Guidance - <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19>

⁷⁰ The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/103/contents/made>

⁷¹ Physical Distancing Guidance Staying at Home and Away from Others - <https://www.gov.scot/publications/coronavirus-covid-19-staying-at-home-and-away-from-others/pages/staying-at-home/>

⁷² The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment Regulations 2020 <https://www.legislation.gov.uk/ssi/2020/106/contents/made>

- **21 April 2020:** The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 2) Regulations 2020 (SSI 2020/126)⁷³ are made and come into force. These regulations strengthen the position already set out in guidance by making it a legal requirement that all businesses that are open during the emergency period must take reasonable steps to ensure that their employees are able to maintain social distancing. They also make minor extensions and clarifications to the regulations in relation to livestock markets, holiday accommodation services and burial grounds.
- **7 May 2020:** The regulations are reviewed.
- **11 May 2020:** The Physical Distancing Guidance which is referred to above is updated to reflect that people are advised they can exercise as often as they wish. Scottish Ministers made this change following scientific advice and using the COVID-19 Decision-Making Framework⁷⁴. This change will be monitored carefully and reviewed in order to assess the effects on physical distancing and infection spread.
- **28 May 2020:** The principal regulations are reviewed and the Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 3) Regulations 2020 (SSI 2020/164)⁷⁵ are made. These regulations provide that people may take part in outdoor recreation with members of their household and with members of one other household. They allow garden centres to reopen and provide that it is a reasonable excuse to leave your home to obtain supplies from garden centres (or any other business or service listed in part 3 of schedule 1) or to access waste/recycling services. The regulations provide for the reopening of outdoor tennis courts and bowling greens. They allow businesses and service providers, currently closed to the public under the regulations, to begin preparing social distancing procedures in readiness for when they are allowed to reopen. They make a number of technical amendments with the effect that the termination of a restriction or requirement imposed by the principal regulations must be by way of an amending instrument, rather than by direction. The regulations came into force on 29 May 2020.
- **18 June 2020:** The regulations are reviewed. The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 4) Regulations 2020 (SSI 2020/182) are made. The regulations allow people to meet outside with their own household and with people from up to two other households. They enable people to attend places of worship for individual prayer and contemplation. They allow accommodation providers to accommodate people travelling for work. They introduce a

⁷³ The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 2) Regulations 2020 <http://www.legislation.gov.uk/ssi/2020/126/made>

⁷⁴ Coronavirus (COVID-19): framework for decision making - <https://www.gov.scot/publications/coronavirus-covid-19-framework-decision-making/>

⁷⁵ Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 3) Regulations 2020 - <http://www.legislation.gov.uk/ssi/2020/164/contents/made>

new requirement to wear a face covering when using a passenger transport service or passenger transport service premises. They enable a person who lives alone, or who is a single parent with children under the age of 18 to form an “extended household” with one other household. The Scottish Government’s guidance is updated to reflect these changes and to make other changes for the purpose of implementing proposals in the route map.

- **26 June 2020:** The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 5) Regulations 2020 (SSI 2020/190) are made. They provide that, in relation to a civil partnership or marriage, an approved celebrant, authorised registrar and any interpreter will not be counted as one of the three households that may take part in the gathering. They enable people to undertake certain activities in relation to the purchase, sale, letting or rental of a residential property and to attend a property for maintenance. The regulations allow certain businesses, that were required to be closed, to reopen. The regulations also enable college and university libraries to reopen to staff and students in certain circumstances. Scottish Government guidance is also updated.
- **2 July 2020:** The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 6) Regulations 2020 (SSI 2020/199) are made. They provide that businesses can sell food and drink to people for consumption on outdoor parts of their premises (with physical distancing). The regulations also provide that accommodation providers may now provide self-catering accommodation in certain circumstances. People who own properties other than where they are living now have a reasonable excuse to visit the property.
- **9 July 2020:** Following the review required by 9 July 2020, Scottish Ministers decided to progress to phase three of the route map. The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 7) Regulations 2020 (SSI 2020/210) are made. They reduce the physical distancing limit to one metre for businesses or services that meet the definition of a passenger transport service premises or a shop. They revoke the offence of leaving one’s home without a reasonable excuse. These regulations also provide that an outdoor gathering may now consist of five households and an indoor gathering may consist of three households and allows gatherings for the purpose of supervised outdoor recreation for people who are under 18 years of age. They allow two households to form an extended household. The regulations create a new offence, requiring people to wear a face covering when inside a shop and provide exceptions and reasonable excuses for failing to meet this duty. Scottish Government guidance is updated.
- **14 July 2020:** The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 8) Regulations 2020 (SSI 2020/211) are made. They provide that businesses may serve food and drink for consumption indoors. The regulations also provide that libraries and

holiday accommodation providers that could only open in certain circumstances, may now fully reopen. They also provide that places of worship may now be reopen and ease restrictions on gatherings to attend a place of worship. The regulations provide that a number of other businesses and services that were previously required to be closed, such as museums, galleries, cinemas and hair salons and barbers can reopen on 15 July, while beauty parlours, tattoo and piercing parlours and spas, may reopen on 22 July. The regulations also ease the restrictions on gatherings at funerals, marriage ceremonies and civil partnership registrations or where the gathering is for the purpose of childcare. Scottish Government guidance is updated.

- **30 July 2020:** The regulations are reviewed. The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendments (No.9) Regulations 2020 (SSI 2020/232) are made. They provide that schools are exempt from two meter physical distancing, that cinemas must follow two meter distancing, and that community centres can reopen.

7.3.5.3 The Physical Distancing Guidance has been updated at various points to accompany the measures set out in the updated regulations, and to give further details on additional recommended measures. A refreshed guidance note, focussing on the key measures and changes in each phase of the route map, has been published at the start of phase two and phase three. The Scottish Government has published supporting evidence that has informed the decisions for moving through the route map. The most recent supporting evidence for the move to phase three was published on 14 July 2020⁷⁶.

7.3.5.4 Police Scotland is publishing weekly updates on the use of coronavirus legislation, including the number of Fixed Penalty Notices issued and other intervention activity⁷⁷. This information is drawn from Police Scotland's 'Coronavirus Interventions' application, which relies on manual input from police officers. Due to this manual input, these figures are indicative only and should not be considered Official Police Statistics. This system currently provides the broadest picture of the differing levels of co-operation experienced by police across Scotland.

7.3.5.5 In due course and as standard practice, the Official Statistics produced by the Scottish Government on Recorded Crime⁷⁸ and Criminal Proceedings⁷⁹ will ultimately provide users with information on both the number of crimes recorded in relation to the new powers, and the number of Fixed Penalty

⁷⁶Coronavirus (COVID-19): Scotland's route map - supporting evidence for moving to Phase 3 - <https://www.gov.scot/publications/covid-19-framework-decision-making-scotlands-route-map-through-out-crisis-supporting-evidence-moving-phase-3/>

⁷⁷ Police Scotland weekly updates on the use of the coronavirus legislation - <https://www.scotland.police.uk/about-us/covid-19-police-scotland-response/enforcement-and-response-data/>

⁷⁸ Recorded Crime in Scotland, 2018-19 National Statistics - <https://www.gov.scot/publications/recorded-crime-scotland-2018-19/>

⁷⁹ Criminal Proceedings in Scotland, 2018-19 National Statistics - <https://www.gov.scot/publications/criminal-proceedings-scotland-2018-19/>

Notices issued. Further updates on developments with these Official Statistics can be received by signing up to the SCOTSTAT network⁸⁰.

- 7.3.5.6 A Local Authority can also use enforcement powers in relation to the parts of the regulations (regulations 3 and 4 of the principal regulations) that relate to restrictions on businesses.
- 7.3.5.7 To ensure a co-ordinated approach to coronavirus was taken nationally, the Environmental Health/Trading Standards COVID-19 Expert Group was formed by the Society of Chief Officers of Environmental Health of Scotland and the Society of Chief Officers of Trading Standards in Scotland in conjunction with COSLA. Both Environmental Health and Trading Standards staff have been designated as authorised officers by Local Authorities to enforce the relevant requirements of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (SSI 2020/103), as amended.
- 7.3.5.8 Each Local Authority is publishing information about enforcement activity undertaken in relation to the regulations on the respective Local Authority's website. This information is currently published every two weeks.

Factors Considered to Determine Use and Continued Necessity

- 7.3.5.9 Prior to the regulations being made, confirmation was sought from the Chief Medical Officer that the measures set out in the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 were required due to the serious and imminent threat to public health posed by the incidence and spread of the coronavirus.
- 7.3.5.10 Scottish Ministers also had to ensure that the restrictions and requirements that they imposed were proportionate to what is sought to be achieved by the imposition of the regulations. Advice that the regulations should continue to remain in force was sought, and provided, ahead of each review of the regulations. This was provided by a range of analytical and health teams across the Scottish Government. Advice on the impact on public health of any changes to the regulations to relax the measures was sought before each change was implemented in the regulations.
- 7.3.5.11 The necessity of the restrictions and requirements imposed by the regulations must be reviewed at least every 21 days, and measures must be terminated as soon as they are no longer required.
- 7.3.5.12 In practice, this means that at least every 21 days, the full range of measures are formally reviewed based on whether they are needed on public health grounds, and the results of the review are communicated to the Scottish Parliament. In between these formal reviews, the individual measures are kept under continuous review and changes are assessed

⁸⁰ SCOTSTAT network for users and providers of Scottish Official Statistics - <https://www2.gov.scot/Topics/Statistics/scotstat>

based on public health grounds and the threat to public health that is posed by coronavirus and whether the restrictions and prohibitions imposed by the regulations remain proportionate to what the regulations seek to achieve. Where measures can be eased, they are being eased as soon as the evidence suggests this. These changes are being announced by the Scottish Government, and announced to the Scottish Parliament, as and when they are made.

7.3.5.13 Throughout the development of the regulations and guidance, the Scottish Government has always had regard to equality considerations and the particular needs of island communities as part of the policy development process. Ministers were clear that the regulations and the restrictions and requirements that they impose were necessary.

7.3.5.14 Whilst these measures were brought in to deal with a significant threat to public health, impact assessments will be carried out as required on these measures. Any proposed changes to the measures are being assessed for their impact on equality and other areas as part of the policy development. This will be reported to the Scottish Parliament in appropriate impact assessments supporting any further amending regulations. An Equality Impact Assessment has been carried out for each of the Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment Regulations No.2 to most recently No.9. All impact assessments can be found on www.legislation.gov.uk under the appropriate instrument. In addition, an Equality Impact Assessment⁸¹ has been published as part of the evidence gathered for the route map.

7.3.6. Section 51 and part 3 of schedule 21 - Powers relating to potentially infectious persons

Description of Provision

7.3.6.1 Section 51 introduces schedule 21 which sets out powers which can be exercised by public health officers, constables and immigration officers in respect of persons where there are reasonable grounds to suspect that they are “potentially infectious”.

Operation of Provision in Reporting Period

7.3.6.2 A declaration of a serious and imminent threat to public health⁸² was made on 25 March 2020 under schedule 21, and a further clarificatory

⁸¹ Coronavirus (COVID-19): evidence gathered for Scotland's route map - equality and Fairer Scotland impact assessment - <https://www.gov.scot/publications/equality-fairer-scotland-impact-assessment-evidence-gathered-scotlands-route-map-through-out-crisis/>

⁸²Coronavirus (COVID-19): Declaration of a serious and imminent threat to public health: <https://www.gov.scot/publications/covid-19-declaration-of-a-serious-and-imminent-threat-to-public-health/>

declaration⁸³ was made on 30 March 2020. Although the schedule 21 powers have been “switched on” via this declaration made by Scottish Ministers, they have not been used in the reporting period. The views and agreement of the Chief Medical Officer were formally sought and secured prior to the issuing of the declaration to switch on the schedule 21 powers.

Factors Considered to Determine Use and Continued Necessity

- 7.3.6.3 The schedule 21 potentially infectious persons powers continue to be required. The easing of lockdown provisions introduce a risk of potential, localised outbreaks of coronavirus. The Test and Protect programme aims to identify those at risk of exposure in order to test for coronavirus and require self-isolation. Where individuals do not co-operate on a voluntary basis it may be necessary to use the powers under schedule 21 for their own and others’ health and wellbeing.
- 7.3.6.4 Should it be necessary to impose statutory measures such as requiring testing or a period of self-isolation, this will, necessarily, impose a restriction on an individual’s freedoms and will engage the European Convention on Human Rights. However, a number of safeguards are built into the provisions of schedule 21 of the UK Act, to ensure that any restrictions can only be imposed insofar as this is necessary and proportionate and individuals are given the right to appeal such restrictions.

7.3.7. Section 52 and part 3 of schedule 22 - Powers to issue directions in relation to events, gatherings and premises

Description of Provision

- 7.3.7.1 Section 52 introduces schedule 22 which gives the Scottish Ministers direction-making powers in relation to events, gatherings and premises.

Operation of Provision in Reporting Period

- 7.3.7.2 A declaration of serious and imminent threat to public health⁸⁴ was made on 25 March 2020 under schedule 22. This had the effect of starting a “public health response period” and switching on the schedule 22 powers (with a further clarificatory declaration⁸⁵ made on 30 March 2020).

⁸³ Coronavirus (COVID-19): Declaration of a serious and imminent threat to public health (supplementary): <https://www.gov.scot/publications/coronavirus-covid-19-declaration-of-a-serious-and-imminent-threat-to-public-health-supplementary/>

⁸⁴ Coronavirus (COVID-19): Declaration of a serious and imminent threat to public health: <https://www.gov.scot/publications/covid-19-declaration-of-a-serious-and-imminent-threat-to-public-health/>

⁸⁵ Coronavirus (COVID-19): Declaration of a serious and imminent threat to public health (supplementary): <https://www.gov.scot/publications/coronavirus-covid-19-declaration-of-a-serious-and-imminent-threat-to-public-health-supplementary/>

7.3.7.3 The views and agreement of the Chief Medical Officer were formally sought and secured prior to the issuing of the declaration to switch on the schedule 22 powers.

7.3.7.4 Although the schedule 22 powers have been “switched on” via the declaration made by Scottish Ministers, they have not yet been used to make directions relating to events, gatherings and premises. Provision in that regard has instead been made to date by regulations made under schedule 19 which have closed certain businesses, prohibited anyone leaving the place where they live without reasonable excuse, and banned public gatherings of more than two people.

Factors Considered to Determine Use and Continued Necessity

7.3.7.5 As the requirement for the schedule 19 regulations is kept under review, based on public health grounds, so too is the ongoing requirement for the schedule 22 powers and when they might be invoked. Whilst no directions have been made under schedule 22 yet, the powers remain necessary and could be used to take fast targeted action beyond the scope of the regulations if it appeared necessary, proportionate and justified in the circumstances. As part of exiting lockdown, the powers may be necessary to allow Scottish Ministers to take more targeted action in local areas.

7.3.7.6 Any direction to prevent a public gathering, a mass event, or to close a particular premises or type of premises will engage the European Convention on Human Rights. Decisions on issuing such directions will be taken in the interests of the protection of public health, will be made on the basis of medical and scientific advice, and will be proportionate to the management of risks to public health of coronavirus.

8. Coronavirus-related Scottish Statutory Instruments

8.1. Section 14 of the second Scottish Act requires Scottish Ministers to report on all SSIs made by Scottish Ministers where the primary purposes relate to coronavirus. This does not apply to SSIs made by Scottish Ministers under the first or second Scottish Acts or the UK Act, as SSIs made under these Acts are already being reported on. Information on SSIs, to which section 14 of the second Scottish Act applies, is included in Table Three below.

Table Three – SSIs to which section 14 of the second Scottish Act applies

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
The National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2020	2020/017	Sections 98 and 105 of the National Health Service (Scotland) Act 1978	Negative	This instrument ensures that certain NHS services for any overseas visitor who requires diagnosis or treatment for coronavirus are provided without charge to that overseas visitor.	http://www.legislation.gov.uk/ssi/2020/17/contents/made	30/01/2020	Open-ended	In force
The Public Health etc. (Scotland) Act 2008 (Notifiable Disease and	2020/051	Section 12(2) of the Public Health etc. (Scotland) Act 2008	Negative	Makes SARS-CoV-2 a notifiable virus and COVID-19 a notifiable disease.	http://www.legislation.gov.uk/ssi/2020/51/contents/made	22/02/2020	Open-ended	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
Notifiable Organisms) Amendment Regulations 2020								
The Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Regulations 2020	2020/101	Section 153 of the Local Government etc. (Scotland) Act 1994	Negative	Introduces two reliefs in relation to Non-Domestic Rates in the financial year beginning on 1 April 2020, and makes consequential amendments to other regulations that provide a relief from liability to pay rates.	http://www.legislation.gov.uk/ssi/2020/101/contents	01/04/2020	31/03/2021	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
The Council Tax Reduction (Scotland) (Amendment) (No.3) (Coronavirus) Regulations 2020	2020/108	Sections 80 and 113(1) and paragraph 1 of schedule 2 of the Local Government Finance Act 1992	Negative	The purpose of these regulations is to increase the additional earnings disregard from £17.10 to £37.10. The regulation takes effect on 06/04/2020 and ceases to have effect at the end of 04/04/2021.	http://www.legislation.gov.uk/ssi/2020/108/contents/made	06/04/2020	04/04/2021	In force
The Carer's Allowance (Coronavirus) (Breaks in Care)(Scotland) Regulations 2020	2020/117	Sections 70(8) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992	Negative	Relaxes the rules on breaks in carer so that covid safe caring still counts as care for the purposes of eligibility.	http://www.legislation.gov.uk/ssi/2020/117/contents/made	03/04/2020	8 months from 03/04/2020	In force
The Single Use Carrier Bag Charge	2020/118	Sections 88 and 96(2) of the Climate	Affirmative	Waives the carrier bag fee in certain	http://www.legislation.gov.uk/ssi/20	02/04/2020	Has effect until 0100	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
(Scotland) Amendment Regulations 2020		Change (Scotland) Act 2009		circumstances, such as bags being used to deliver groceries from a supermarket, for collections and for takeaways.	20/118/contents/made		on 03/10/2020	
The Prisoner and Young Offenders Institutions (Scotland) Amendment Rules 2020	2020/122	Section 39 of the Prisons (Scotland) Act 1989	Negative	The amendments provide Governors with flexibility in regards to compliance with timescales and the provision of services detailed in Prison Rules.	http://www.legislation.gov.uk/ssi/20/122/contents/made	07/04/2020	30/09/2020	In force
The Electricity Works (Miscellaneous Temporary Modifications)	2020/123	Section 2(2) of the European Communities Act 1972, sections 36(8), 36C(2),	Negative	Suspends requirements for applicants to provide access to certain information at a physical location.	http://www.legislation.gov.uk/ssi/20/123/contents/made	24/04/2020	Ending on the date on which Part 1 of the first Scottish Act expires	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
(Coronavirus) (Scotland) Regulations 2020		60(2) and (3) and paragraph 1(3) of schedule 8 of the Electricity Act 1989						
The Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020	2020/124	Section 2(2) of the European Communities Act 1972, sections 35B(5), 40, 43A(10) and (11) and 275 of the Town and Country Planning (Scotland) Act 199	Negative	Suspends requirements for certain public events and meetings for applicants to provide access to certain information at a physical location.	http://www.legislation.gov.uk/ssi/2020/124/introduction/made	24/04/2020	Ending on the date on which Part 1 of the first Scottish Act expires Regulation 2 allows applications to be made up to 6 months after this point, where pre-application consultation (PAC) was carried out in	in force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
							accordance with the temporary emergency requirements rather than the reinstated PAC requirements.	
The Education (Misc. Amendments)(Coronavirus)(Scotland) Regulations 2020	2020/128	sections 28A(5) and 28D(3) of the Education (Scotland) Act 1980 and section 22 of, and paragraphs 4(3) and 6(6) of schedule 2 of the Education (Additional Support for	Negative	Extends timeframes for admissions related appeals and gives greater flexibility in how appeals can be conducted.	http://www.legislation.gov.uk/ssi/2020/128/introduction/made	23/04/2020	Open-ended	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
		Learning) (Scotland) Act 2004						
The Town and Country Planning (General Permitted Development) (Scotland) (Coronavirus) Amendment Order 2020	2020/129	sections 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997	Negative	Allows Local Authorities to carry out development for emergency purposes.	http://www.legislation.gov.uk/ssi/2020/129/introduction/made	24/04/2020	Until 31/12/2020	In force
The Children and Young People (Scotland) Act 2014 (Modification) (No.2) Revocation Order 2020	2020/136	Section 48(2) of the Children and Young People (Scotland) Act 2014	Affirmative	This instrument revokes the increase of the mandatory amount of early learning and childcare from 600 hours to 1140 hours each year.	http://www.legislation.gov.uk/ssi/2020/136/introduction/made	30/04/2020	Open-ended	In force
The Homeless Persons (Unsuitable Accommodati	2020/139	Section 29(3) and (4) of the Housing	Negative	Extends the 2014 Unsuitable Accommodation Order to all	http://www.legislation.gov.uk/ssi/2020/139/intro	05/05/2020	Open-ended except for Article 3 which	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
on)(Scotland) Amendment Order 2020		(Scotland) Act 1987		homeless households.	duction/mad e		expires on 30/09/2020	
The Education (Deemed Decisions) (Coronavirus) (Scotland) Amendment Regulations 2020	2020/149	Sections 28D(3)(b) and 28H(5)(b) of the Education (Scotland) Act 1980	Negative	Amends regulations that relate to an appeal against the decision of an education authority to exclude a pupil from school, by amending the time period after which failure of the education authority to hold an appeal committee hearing becomes a deemed decision from one month to four months.	https://www.legislation.gov.uk/ssi/2020/149/mad e	15/05/2020	Open-ended	In force
The Adults with Incapacity	2020/151	Section 51(6) of the Adults with	Negative	To improve capacity within and allow some	http://www.legislation.gov.uk/ssi/20	21/05/2020	Open-ended	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
(Ethics Committee)(Coronavirus)(Scotland Amendment Regulations 2020		Incapacity (Scotland) Act 2000		flexibilities in working practice of the committee as a result of urgency of COVID research and the subsequent amendments required to trials involving adults with incapacity in Scotland, as research continues and is finessed beyond the pandemic stage when clinician members may be require to absent themselves due to clinical duties.	20/151/contents/made			
The Marine Works & Marine Licensing	2020/157	Section 2(2) of the European Communitie	Negative	Replaces requirements for certain public consultation	http://www.legislation.gov.uk/ssi/2020/157/intro	21/05/2020	From 21/05/2020 and ending on the date	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
(Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020		s Act 1972, sections 23(3)(d), (4) and (5), 24(2) and 165(1) of the Marine (Scotland) Act 2010		events with online events and suspends requirements for applicants to provide access to certain information at a physical location.	duction/mad e		on which Part 1 of the first Scottish Act expires	
The Police Act 1997 and Protection of Vulnerable Groups (Scotland) Act 2007 (Fees) (Coronavirus) Regulations 2020	2020/163	Sections 112(1)(b), 113A(1)(b), 113B(1)(b), 114(1)(b) and 116(1)(b) of the Police Act 1997 and sections 70(1) and (2) of the Protection of Vulnerable Groups	Negative	Qualifying sectors recruiting staff solely to respond to pandemic do not pay usual fee for a disclosure check.	http://www.legislation.gov.uk/ssi/2020/163/introduction/mad e	26/06/2020	Expires on 25/12/2020	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
		(Scotland) Act 2007						
The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020	2020/169	Section 94(1)(b)(i) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	Introduces a requirement on international traveller arrivals into Scotland to provide data on their journey and contact details, and a requirement to self-isolate for 14 days after arrival, subject to a limited number of sectoral exemptions.	http://www.legislation.gov.uk/ssi/2020/169/introduction	08/06/2020	12 months	In force
The Health Protection (Coronavirus) (Public Health Information for Travellers to Scotland) (Scotland)	2020/170	Section 94(1)(b)(i) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	Requires commercial carriers to provide information to travellers on applicable public health requirements in	http://www.legislation.gov.uk/ssi/2020/170/introduction/made#f00001	08/06/2020	12 months	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
Regulations 2020				Scotland including the need to provide contact information and to self-isolate.				
The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment Regulations 2020	2020/171	Section 94(1)(b)(i) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	Amendments on penalty provisions.	http://www.legislation.gov.uk/ssi/2020/171/contents/made	08/06/2020	12 months	In force
The Land Reform (Scotland) Act 2016 (Supplementary Provision) (Coronavirus) Regulations 2020	2020/174	Section 127(1) of the Land Reform (Scotland) Act 2016	Affirmative	Provides a six month extension to an Amnesty period that was due to end on 12/06/2020.	http://www.legislation.gov.uk/ssi/2020/174/introduction/made	12/06/2020	Six month extension - expires 12/12/2020	In force
The Prisons and Young Offenders	2020/175	Section 39 of the Prisons	Negative	The Amendment Rules provide for the	http://www.legislation.gov.uk/ssi/20	15/06/2020	Open-ended	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
Institutions (Coronavirus) (Scotland) Amendment Rules 2020		(Scotland) Act 1989		introduction of virtual visits, authorised personal communication devices and in-cell telephony in Scottish prisons.	20/175/introduction/made			
The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.2) Regulations 2020	2020/184	Section 94(1)(b)(i) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	Amends some of the sectoral exemptions to provide clarity on seamen and masters.	http://www.legislation.gov.uk/ssi/2020/184/introduction/made	20/06/2020	12 months from 08/06/2020	In force
The Local Government Finance (Coronavirus) (Scotland) Amendment Order 2020	2020/187	Paragraph 1 of schedule 12 of the Local Government Finance Act 1992	Affirmative	Substitutes schedule 1 of the Local Government Finance (Scotland) Order 2020, which determines the amount of revenue support grant payable to	http://www.legislation.gov.uk/ssi/2020/187/introduction/made	25/06/2020	31/03/2021	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
				each Local Authority in Scotland, in respect of the financial year 2020-2021.				
The Legal Aid and Advice and Assistance (Miscellaneous Amendments) (Coronavirus) (Scotland) Regulations 2020	2020/191	Sections 9, 12(3), 33(2), (3) and (3A), and 36(1), (2)(a) and (g) of the Legal Aid (Scotland) Act 1986	Affirmative	SSI 2020/191 makes provision for temporary amendments to legal aid regulations (during the emergency period) to facilitate interim payments of legal aid fees, support adherence to travel restrictions and social distancing guidance, and support access to justice for appeals against special	http://www.legislation.gov.uk/ssi/2020/191/introduction/made	01/07/2020 for Regulations 1 to 3, and 05/08/2020 for Regulation 4	For the duration of the emergency period, defined as the period beginning on 01/07/2020 and ending on the date on which Part 9 of schedule 4 of the Coronavirus (Scotland) Act 2020 expires in accordance with section	Partially in force. One regulation to come into force 5 August.

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
				restrictions or requirement.			12 of that Act	
The Registration of Independent Schools (Prescribed Persons)(Coronavirus) (Scotland) Amendment Regulations 2020	2020/205	Sections 98A(6) and 133(2D)(b) of the Education (Scotland) Act 1980	Affirmative	Amends regulation 3 of Registration of Independent Schools (Prescribed Person) (Scotland) Regulations 2017 to extend the deadline to 01/06/2021 for those remaining teachers in	http://www.legislation.gov.uk/ssi/2020/205/introduction/made	04/07/2020	Open-ended	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
				independent schools to register with the General Teaching Council for Scotland.				
The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.3) Regulations 2020	2020/209	Section 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	Amendments to introduce additional sectoral exemptions and exemptions from self-isolation for travellers from certain countries and territories.	http://www.legislation.gov.uk/ssi/2020/209/contents/made	10/07/2020	12 months from 08/06/2020	In force
The Land and Buildings Transaction Tax (Tax Rates and Tax Bands) (Scotland) Amendment (No.2) (Coronavirus) Order 2020	2020/215	Section 24(1) of the Land and Buildings Transaction Tax (Scotland) Act 2013	Made Affirmative	Temporarily raises the nil rate threshold for Land and Buildings Transaction Tax (LBTT) for residential property transactions from £145,000	http://www.legislation.gov.uk/ssi/2020/215/contents/made	15/07/2020	From 15/07/2020 until the end of the day of 31/03/2021	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
				to £250,000. The revised rates will apply to all relevant transactions where the effective date is between 15/07/2020 and 31/03/2021 (inclusive of these dates). The rates for the Additional Dwelling Supplement and non-residential LBTT will remain unchanged.				
Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 4)	2020/221	Section 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Adds Spain to the list of exempt countries in the international travel regulations.	https://www.legislation.gov.uk/ssi/2020/221/made/data.pdf	23/07/2020	12 months from 08/06/2020	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
Regulations 2020								
The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 5) Regulations 2020	2020/224	Section 94 of the Public Health etc. (Scotland) Act 2008	Made Affirmative	To amend the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 to remove Spain from the list of exempt countries for quarantine requirements	https://www.legislation.gov.uk/ssi/2020/224/introduction/made	26/07/2020	12 months from 08/06/2020	In force
The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 6) Regulations 2020	2020/229	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	To amend the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 to add new countries to the	https://www.legislation.gov.uk/ssi/2020/229/introduction/made	28/07/2020	12 months from 08/06/2020	In force

SSI title	SSI number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Link to SSI	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (31 July 2020)
				quarantine exemption list.				
The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.7) Regulations 2020	2020/233	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	To amend the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 to remove Luxembourg from the list of exempt countries from quarantine requirements.	https://www.legislation.gov.uk/ssi/2020/233/contents/made	31/07/2020	12 months from 08/06/2020	In force



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