

# **Coronavirus Acts: fourth report to Scottish Parliament**

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**Scottish Government**  
Riaghaltas na h-Alba  
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# Executive Summary

## Overview

As we set out in our previous two-monthly reports on the Coronavirus Acts, in seeking the Parliament's approval for the necessary legislation to respond to the coronavirus pandemic, the Government has always been clear that the legislation agreed by Parliament should be proportionate to the challenge and last only as long as required. Throughout, we have sought to ensure that the Scottish Parliament has continued oversight of those provisions and can hold Scottish Ministers to account for their use. This has continued to be central to the implementation, monitoring and review of the legislation, and will remain so beyond this fourth report covering the reporting period up to 30 November 2020.

During this reporting period, we have proposed a number of additional measures to enhance Parliamentary scrutiny of COVID-19 legislation which have now been agreed by Parliamentary authorities. These mechanisms will afford Members the opportunity to scrutinise any proposed changes to levels-based Regulations before changes come into effect.

Our position has always been that creating additional powers does not mean they will automatically be used; decisions to activate any individual power are taken in light of the prevailing situation here in Scotland and other parts of the UK. Through this and our previous reports, we have demonstrated that the powers in the legislation continue to be used proportionately and only where necessary.

It remains the case that 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 progress through the Route Map. In other cases, the powers are judged to continue to be necessary because they may be required to respond to a future resurgence of the virus – which remains a very real risk, even as we have taken urgent action and put in place new restrictions in order to stem the recent rise in cases and bring COVID-19 back under control.

During the last reporting period, regulations to extend the expiry dates of Part 1 of the Coronavirus (Scotland) Act 2020 (the 'first Scottish Act') and the Coronavirus (Scotland) (No.2) Act 2020 (the 'second Scottish Act') from 30 September 2020 to 31 March 2021 were made and came into force on 29 September 2020.

Regulations to expire certain provisions within Part 1 of the Scottish Acts which were deemed to no longer be needed beyond 29 September 2020 and which would not therefore be covered by an extension, also came into force on 29 September 2020. Expiring provisions which were no longer required and suspending through separate regulations provisions which are not required at this time - but may be required at a future point - reflects the commitment given when the legislation was introduced that provisions should not be in place for longer than they are needed. The approach we

have taken was judged to be proportionate and appropriate to the scale of the ongoing risks posed by coronavirus.

The continued necessity of the legislation will of course be kept under review throughout the reporting process. It is also important to note that, throughout the six month extension period to 31 March 2021, if provisions under the Scottish Acts are deemed to be no longer necessary during that time, they could be subject to suspension (with subsequent revival) or early expiry.

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' (the 'Route Map'). Since our third report was published on 6 October 2020, the Scottish Government has brought into effect 'COVID-19: Scotland's Strategic Framework'. Published on 23 October this Framework set out five levels of protection that can be applied nationally or to different areas of the country according to evolving patterns of infection and transmission.

The Scottish Government 'Coronavirus (COVID-19): framework for decision making' which was published in April 2020 set out seven core principles across our approach to responding to coronavirus. 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.

We remain committed to ensuring transparency in the implementation of, and reporting on, the legislation, but we equally 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 frontline of the coronavirus response. We have therefore continued in this report our approach of going beyond the statutory reporting requirements, by providing additional information for provisions which, at this time, we have judged to be of most significant impact and/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.

### **Coronavirus legislation: 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 Coronavirus Act 2020 ('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 previous reports, we have reported in this fourth 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.

This report therefore includes information on the status and operation of the provisions under Part 1 of the first and second Scottish Acts in this reporting period, and the provisions of the UK Act for which the Scottish Parliament gave legislative consent. 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 duties set out in section 15A of the first Scottish Act and section 13 of the second Scottish Act, that require 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. We are clear on 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.

We have, in the development of this fourth report, continued to reflect on the views and publications of key stakeholders whose focus is on the areas of human rights, children’s rights and equality impacts. We also recognise 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 through its inquiry into the impact of the pandemic on equality and human rights. We are grateful for the work that is being undertaken by the Parliament, stakeholders and others in scrutinising the work of the Scottish Government to ensure that human rights, children’s rights and equality are protected at this time. Stakeholders’ expertise continues to assist us to better understand how the pandemic impacts all of Scotland’s people, and how these impacts can differ across our society’s groups and communities.

### **Use of powers contained in the Coronavirus Acts**

Some of the provisions in the legislation which were commenced immediately have supported key elements of our response to the pandemic, whilst others have not yet 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 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 sunset provision of 31 March 2021 which applies to Part 1 of the first and second Scottish Acts. Part 1 of both Acts could be extended for a further six months to 30 September 2021 through regulations with the agreement of Parliament. 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.

### **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 30 November 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. Section 16(1), (2), (4)(a) and (b) of the UK Act are suspended together with section 16(4)(e) as it relates to adult carers (SSI 2020/377).

All provisions in the first Scottish Act commenced the day after Royal Assent, with the exception of paragraph 11(1) of schedule 3 which had not commenced in the period since Part 1 of the first Scottish Act came into force, and which has now been expired through the Coronavirus (Scotland) Acts (Early Expiry of Provisions) Regulations 2020 (the 'expiry regulations'). All provisions in the second Scottish Act commenced the day after Royal Assent.

The Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2020 (the 'extension regulations') which extend the expiry date of Part 1 of both Scottish Acts from 30 September 2020 to 31 March 2021, came into force on 29 September 2020.

The expiry regulations which expire provisions under Part 1 of both Scottish Acts which were judged not to be required also came into force on 29 September 2020.

Separate regulations have been made to suspend schedule 3, Part 2, paragraph 11(2) and (3) of the first Scottish Act which relate to adults with incapacity provisions, and schedule 7, paragraphs 32 and 33 of the first Scottish Act which relate to Muirburn.

### **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 fourth 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 2020 (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 the Scottish Parliament on the Coronavirus Acts<sup>1</sup> was published on 9 June 2020; the second report<sup>2</sup> was published on 11 August 2020; and the third report<sup>3</sup> was published on 6 October 2020. This fourth report covers the period 1 October to 30 November.
- 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.
- 1.4. This report covers the reporting requirements to reflect the 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 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.

## 2. Background

### Reporting requirements

- 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.

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

<sup>2</sup> Coronavirus Acts: second report to Scottish Parliament - <https://www.gov.scot/publications/coronavirus-acts-second-report-scottish-parliament/>

<sup>3</sup> Coronavirus Acts: third report to Scottish Parliament - <https://www.gov.scot/publications/coronavirus-acts-third-report-scottish-parliament/>

- 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 our previous reports to the Scottish Parliament, in this fourth 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.

### **Extension and expiry of the Scottish Acts**

- 2.4. Under section 12 of the first Scottish Act and section 9 of the second Scottish Act, Part 1 of both Acts were due to expire on 30 September 2020, the end of the third reporting period.
- 2.5. Part 1 of the Scottish Acts could only be extended in their entirety and not on a provision by provision basis. On 24 August 2020, the Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2020<sup>4</sup> (the ‘extension regulations’) were laid in draft before the Parliament, a Statement of Reasons<sup>5</sup> for the regulations having already been laid. The Coronavirus (Scotland) Acts (Early Expiry of Provisions) Regulations 2020<sup>6</sup> (the ‘expiry regulations’) were laid in Parliament on the same day and both sets of regulations came into force on 29 September 2020.
- 2.6. The extension regulations extended the expiry date of Part 1 of both Scottish Acts to 31 March 2021. The expiry regulations expired provisions of those Acts which were no longer required beyond 29 September 2020.
- 2.7. Further information is included within the Policy Notes which accompanied the regulations, and in the Statement of Reasons which was published on the Scottish Government’s website. Table One of this report includes information on which provisions of Parts 1 of the Scottish Acts have been expired and suspended.

## **3. Our approach to reporting**

- 3.1. In continuing to develop our approach to reporting, 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 (people with one or more of the protected characteristics listed in the Equality Act 2010), or their implications more generally for equality and human rights. Some provisions are of significant interest to the Scottish Parliament for other reasons.

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<sup>4</sup>The Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/299/contents/made>

<sup>5</sup> Coronavirus (Scotland) Act 2020 and the Coronavirus (Scotland) (No.2) Act 2020 - proposed extension: statement of reasons - <https://www.gov.scot/publications/proposed-extension-coronavirus-scotland-act-2020-coronavirus-scotland-no-2-act-2020-statement-reasons/>

<sup>6</sup> The Coronavirus (Scotland) Acts (Early Expiry of Provisions) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/249/introduction/made>

- 3.2. 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. This is consistent with our approach in our previous reports.
- 3.3. 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 again sought to examine these impacts. We have in this reporting period continued to reflect on the views and publications of key stakeholders with an interest in the areas of human rights, children's rights and equality impacts. This has included, but is not limited to, consideration of the written and oral evidence which was submitted to the Parliament's COVID-19 Committee in response to its call for evidence on the Scottish Acts extension and expiry regulations. We have considered the views of other stakeholders in this reporting period, including the British Institute of Human Rights, the Scottish Human Rights Commission and the Children and Young People's Commissioner Scotland, and we also recognise the interest and views of the Parliament's Equalities and Human Rights Committee.
- 3.4. While it is the view of the Scottish Government that any remaining impacts on equality and human rights are currently justified and are a proportionate means of helping to achieve the legitimate aim of reducing the very significant 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 justify any negative impacts caused. The commitment to ensure that powers should not be in place for longer than they are needed was demonstrated in the decision to expire a number of paragraphs of Part 1 of the Scottish Acts which were judged not to be required beyond 29 September 2020 as part of the overall extension of the Acts, and to suspend other paragraphs of those Acts which are not currently required, but may be required at a future point.
- 3.5. One specific example of where human rights and equality implications have informed decisions on the continued necessity of provisions in the legislation was the decision to expire paragraph 11(1) of schedule 3 of the first Scottish Act relating to adults with incapacity. As set out at paragraph 19 of the Policy Note<sup>7</sup> which accompanied the expiry regulations: "in considering whether this paragraph should be expired early, the Scottish Government has examined very carefully the considerations in relation to human rights". The expiry of this paragraph was welcomed by the Scottish Human Rights Commission (SHRC), as set out in a written submission by SHRC to the COVID-19 Committee on 16 September 2020<sup>8</sup>. Other stakeholders have also supported the expiry of this paragraph. Prior to being expired, the paragraph had not been commenced and

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<sup>7</sup> The Coronavirus (Scotland) Acts (Early Expiry of Provisions) Regulations 2020 - [https://www.legislation.gov.uk/ssi/2020/249/pdfs/ssipn\\_20200249\\_en.pdf](https://www.legislation.gov.uk/ssi/2020/249/pdfs/ssipn_20200249_en.pdf)

<sup>8</sup> Submission from SHRC to COVID-19 Committee - <https://www.parliament.scot/Meeting%20Papers/20200916CVDMeetingSubmissions.pdf>

had not been in operation since the first Scottish Act came into force on 7 April 2020. This was reflected in the reporting on these provisions in our first and second reports to Parliament on the Coronavirus Acts.

- 3.6. We have also, in this report, included examples of how equality impacts have been, and are being, considered in relation to the implementation of particular powers, including the Equality Impact Assessments (EQIAs) which have been carried out for the Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment Regulations from No.2 to No.13<sup>9</sup> and the EQIA for the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020<sup>10</sup> as well as the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020<sup>11</sup> and the 5 sets of amending regulations made to them. This report also includes information on how the impact of the powers relating to evictions from dwelling houses under the first Scottish Act, and pre-action requirements under the second Scottish Act, have been considered.
- 3.7. We will keep our approach to reporting on these 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 fourth report on the status of the non-devolved provisions of the UK Act on 1 December 2020<sup>12</sup>. Its first two-monthly report<sup>13</sup> was published on 29 May 2020; its second report<sup>14</sup> was published on 31 July 2020 and its third report<sup>15</sup> was published on 1 October 2020.
- 4.2. The UK Act has a sunset provision (section 89) by which it expires two years after the day it was passed, on 25 March 2022, subject to certain exceptions which are set out in the legislation.
- 4.3. As required under the UK Act, the House of Commons undertook a review of its non-devolved provisions after six months of operation and debated a motion on 30 September 2020 “that the temporary provisions of the Coronavirus Act 2020 should not yet expire”.

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<sup>9</sup>The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 13) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/261/resources>

<sup>10</sup>The Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/279/resources>

<sup>11</sup> The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/344/resources>

<sup>12</sup> Two monthly report on the status of the non-devolved provisions of the Coronavirus Act 2020: November 2020 <https://www.gov.uk/government/publications/coronavirus-act-report-november-2020>

<sup>13</sup> Coronavirus Act report: May 2020 - <https://www.gov.uk/government/publications/coronavirus-act-report-may-2020>

<sup>14</sup>Two monthly report on the status of 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>

<sup>15</sup> Coronavirus Act report: September 2020 -<https://www.gov.uk/government/publications/coronavirus-act-report-september-2020>

- 4.4. The devolved provisions in the UK Act were not in scope of the House of Commons six month review. However, review of their status, operation and continuing necessity is part of the Scottish Government's two-monthly reporting to the Scottish Parliament, which provides the Parliament with an opportunity to scrutinise the judgements which have been made in the operation, and assessment of the continued necessity of those provisions.
- 4.5. We are continuing to engage and work with the UK Government and the 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. In this report we have included information on a total of 60 SSIs which are in scope for reporting under section 14 of the second Scottish Act.

### **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 into account. 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 consistency in our approach and ensure the fullest possible consideration is given to this information.
- 5.3. In terms of our requirements under the legislation, consideration has been given to the provisions in the Scottish and UK Acts where domestic abuse may be deemed relevant. Where information on the nature and number of incidents of domestic abuse may be deemed of relevance to a provision, this has been considered as part of the assessment of whether the provision remains necessary. The view remains that this information continues to be a valued and necessary part of the process to determine whether certain provisions remain necessary.

- 5.4. The latest information from Police Scotland to support the review was published on 26 November 2020<sup>16</sup>, as part of the Scottish Government Justice Analytical Services data report on how the coronavirus pandemic has affected the justice system. The data from Police Scotland highlights that looking cumulatively across April to October 2020, incidents were 7% higher than the equivalent period in 2019 (39,235 incidents recorded in 2020 and 36,744 incidents in 2019). The proportion of April to October 2020 incidents that include the recording of at least one crime or offence was 43.4%. Police Scotland's Management Information Report suggests an equivalent figure of 43.9% for 2019-20.
- 5.5. Separate figures on crimes recorded under the Domestic Abuse (Scotland) Act 2018 are available from the Recorded Crime in Scotland monthly Official Statistics. There were 893 such crimes recorded by the police in April to October 2020, compared to 1,026 during the equivalent period in 2019 (down 13%). In addition to earlier research<sup>17</sup> published by Justice Analytical Services on the particular impact coronavirus has had on those experiencing domestic abuse an update covering phase 3 of Scotland's route map (11 August – 11 October) was published in November<sup>18</sup>. This research along with the available information on domestic abuse incidents, continues to inform our approach to ensuring that our response to domestic abuse is effective and that those at risk are being supported. Going forward, Justice Analytical Services will be gathering information on the experiences of child and adult witnesses in domestic abuse cases at court to fulfil Domestic Abuse (Scotland) Act 2019 legislation reporting requirements and to provide an insight into the experience of being at court during the pandemic emergency.
- 5.6. Beyond the immediate response to the coronavirus emergency situation, the Scottish Government remains committed to ensuring that actions to tackle domestic abuse and all forms of gender based violence continue to be prioritised. The final Equally Safe Progress Report<sup>19</sup> published in November 2020 gives an account of the actions taken throughout the past year to react to the challenges presented by the COVID-19 pandemic and details some of the key actions and achievements over the course of the Equally Safe Strategy and Delivery Plan.
- 5.7. This continued focus on efforts to tackle violence against women and girls is vital as we move from a focus on the immediate response to the coronavirus situation to a period of recovery and renewal. For example, the Scottish Government's continued commitment to improve the services for women and girls experiencing violence, has been embedded within the Recover, Renew and Transform (RRT) Programme.

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<sup>16</sup> <https://www.gov.scot/publications/coronavirus-covid-19-justice-analytical-services-data-report-october-2020/>

<sup>17</sup> Coronavirus (COVID-19): domestic abuse and other forms of violence against women and girls during Phases 1, 2 and 3 of Scotland's Route Map (22 May to 11 August 2020) - <https://www.gov.scot/publications/coronavirus-covid-19-domestic-abuse-forms-violence-against-women-girls-during-phases-1-2-3-scotlands-route-map-22-11-august-2020/>

<sup>18</sup> <https://www.gov.scot/publications/coronavirus-covid-19-domestic-abuse-forms-violence-against-women-girls-during-phase-3-scotlands-route-map-11-august-11-october/pages/3/>

<sup>19</sup> [Equally Safe delivery plan: year two update report - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/equally-safe-delivery-plan-year-two-update-report/pages/3/)

- 5.8. It is clear that the necessary restrictions put in place to respond to COVID-19 have had a significant impact on Scotland's justice system. The work of the RRT Programme is focussed towards enabling the justice system to be able to not just operate again at pre-COVID-19 levels, but also to prepare for future transformation. Consideration of equality and human rights is central to this work, and organisations representing the Violence Against Women and Girls sector are represented on the advisory group that sits across the RRT programme. To support the aims of the programme, the Scottish Government has provided significant funding, including £12 million to the Scottish Courts and Trials Services for remote High Court and Sheriff jury centres to restore pre-COVID-19 court capacity, on top of £3 million to develop court technology.
- 5.9. Relevant to the provisions contained at Section 5 and schedule 4, part 1 of the first Scottish Act on conduct of court business by electronic means, throughout the RRT programme it is recognised that virtual proceedings, combined with summary trials continuing in physical courtrooms, could provide a mechanism to deal with some cases awaiting trial. For example, in preparation for a Round 3 of pilot virtual summary trials, a revised Practice Note is being finalised to reduce the burden of case preparation and introduce a presumption in favour of virtual trials for at least one category of business (e.g. Domestic Abuse). In parallel, a full Equality Impact Assessment is being carried out to ensure necessary safeguards and protections are built in to these changes; and that the learning from the current pilots and a full review of the end to end customer journeys will inform any future national roll out.

### **Additional reporting requirements**

- 5.10. 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. The second 'Coronavirus (Scotland) (No.2) Act 2020: Report on Marriage and Civil Partnership'<sup>20</sup> was laid in Parliament and published on 15 October 2020. This will continue to be reported on separately and is not included within this report.
- 5.11. 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. The second 'Coronavirus (Scotland) (No.2) Act 2020: report on the Scottish Ministers' responses to requests for information under the Freedom of Information (Scotland) Act 2020' was laid in Parliament and published on 9 October 2020. This will continue to be reported on separately and is not included within this report.

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<sup>20</sup> Coronavirus (Scotland) (No.2) Act 2020: Report on Marriage and Civil partnership - <https://www.gov.scot/publications/coronavirus-scotland-no-2-act-2020-report-marriage-civil-partnership-2/>

## **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. This includes information on the provisions which have been expired or suspended in this reporting period.
- 6.3. Where it is indicated in Table One that provisions have been expired as they are 'spent' provisions, this means that the provisions make amendments to other legislation and therefore the provisions themselves no longer need to remain in force. The operation of section 15(2)(d) of the Interpretation and Legislative Reform (Scotland) Act 2010 means that the expiry of these provisions does not affect the amendments they have made to other legislation. The effect of the expiry is simply to remove the 'spent' provisions in each of the Scottish Acts.
- 6.4. The purpose of the expiry of such spent provisions, even though this does not affect the amendments to other legislation made by those provisions, is to respect the commitment given by Ministers to seek to expire provisions as soon as is appropriate.
- 6.5. It was considered appropriate to expire these provisions as they are considered to no longer be needed and this will aid clarity in the statute book.
- 6.6. 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 four (ending 30 November)	Status at end of reporting period four (30 Nov) 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 <a href="#">7.1.1</a>	In operation  Supplementary information provided – see section <a href="#">7.1.1</a> for further information	<b>Commenced and still in force.</b>  The Regulations made in the previous reporting period came into force on 3 October 2020 (The Coronavirus (Scotland) Act 2020 (Eviction from Dwelling-houses) (Notice Periods) Modification Regulations 2020 (SSI 2020/270))
First Scottish Act	Section 3 and schedule 2 - Temporary extension of moratoria 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 31 October 2020, 799 applications for moratoria had been granted under the new powers.	<b>Commenced and still in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
First Scottish Act	Section 4 and schedule 3 - Children and vulnerable adults – Part 1 – Children	See section <a href="#">7.1.2</a>	<p>Child protection provisions – in operation</p> <p>Children’s hearings provisions – in operation</p> <p>Looked after children provisions – in operation</p> <p>Supplementary information provided - see section <a href="#">7.1.2</a> for further information</p>	<p>Section 4 and schedule 3, Part 1</p> <p>Paragraphs 1-5 and 7-10 – <b>commenced and still in force</b></p> <p>Paragraph 6 <b>expired</b></p> <p>No change to status since last reporting period</p>
First Scottish Act	Section 4 and schedule 3- Children and vulnerable adults – Part 2 – Vulnerable adults	See section <a href="#">7.1.3</a>	<p>Not in operation</p> <p>Paragraph 11(1) expired on 29 September and the rest of Paragraph 11 was suspended as from 30 September</p>	<p>Section 4 and schedule 3, Part 2</p> <p>Paragraph 11(1) <b>expired</b></p> <p>Paragraph 11(2) and (3) <b>suspended</b></p> <p>No change to status since last reporting period</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any 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</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 (ASSPIC) transitioned to a remote basis.</p> <p>Work is underway on plans for civil jury trial resumption both in the</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		<p>witnesses) can take part in any proceedings by way of live visual (television) or audio (telephone) link from any location.</p>	<p>Court of Session and ASSPIC. The first blended civil proof (proof using both in person and video evidence) has taken place. Arrangements are currently being made for further blended commercial proofs in the Court of Session. For criminal business, the conduct of virtual courtroom trials has been piloted and criminal justice organisations are working together to develop a model for trials to be conducted virtually where appropriate.</p> <p>In High Court cases, the use of jury centres has enabled the conduct of trials by jury while physical distancing requirements remain in force. Recent</p>	

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			<p>SCTS statistics showed that evidence-led trials in the High Court are now at 67% of the average monthly pre-COVID-19 level. This is expected to increase during November as the normal capacity for 16 trials per day is restored.</p> <p>Work is underway to further roll out remote jury centres across Scotland to restart Sheriff &amp; Jury trials and deliver capacity for 18 jury trial courts to operate. SCTS plans for centres in the Sheriffdoms of Lothian &amp; Borders and Glasgow &amp; Strathkelvin to be in place by December, with other Sheriffdoms following in early 2021.</p>	

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			<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>In accordance with the revised policy guidance issued by the Lord Advocate in relation to fiscal fines, the increase in fine amounts enables alternative action to be taken in a wider range of cases, where such action is assessed as appropriate by prosecutors.</p> <p>Prosecutors are directed to first consider offering a direct measure, in</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			<p>particular a fiscal fine, in relation to appropriate cases which would otherwise have proceeded in the Justice of the Peace court.</p> <p>In the period since the provision was introduced up until 31<sup>st</sup> August 2020, 5,748 people were offered a fiscal fine. Of these, 155 or 3% were above the previous scale maximum of £300. In addition, 246 individuals were offered a combined offer (Fiscal Fine and compensation), of whom 9 were offered a combined offer where the Fiscal Fine component was above the previous scale maximum of £300.</p> <p>While court business is affected by COVID-19,</p>	

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			<p>these provisions will continue to be required.</p> <p>COPFS will continue to monitor and review the use of the measure, which will only be used where such action is considered appropriate in the public interest.</p>	
First Scottish Act	Section 5 and schedule 4, Part 3 - Cases beginning with an appearance from custody	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	<p>In operation</p> <p>The provisions continue to enable 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>The provision creates the necessary flexibility to ensure the continued safe and effective operation of custody courts during the</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		<p>a case, up until a not guilty plea is tendered, if that occurs.</p>	<p>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> <p>While court business is affected by COVID-19 and public health measures remain in place these provisions will continue to be required.</p> <p>This provision enables the effective continued operation of custody court business and allows custody courts to be conducted in a way which will minimise unnecessary travel and congregation of</p>	

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			people in accordance with public health guidance, and allow Police Scotland and the Scottish Courts and Tribunals Service to continue to operate a smaller number of centralised police custody suites and court hubs in response to the outbreak.	
First Scottish Act	Section 5 and schedule 4, Part 4 - Extension of time limits	See section <a href="#">7.1.4</a>	In operation  Supplementary information provided – see section <a href="#">7.1.4</a> for further information	<b>Commenced and still in force</b>  No change to status since last reporting period
First Scottish Act	Section 5 and schedule 4, Part 5 - Evidence	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.	In operation  However, given that there have been only a small number of jury trials (they only re-commenced in mid-July) and these provisions are likely to be used mainly in respect of jury trials, it is	<b>Commenced and still in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			<p>expected their use has been limited.</p> <p>It is likely that as solemn court business recommences there will be a greater need for this provision.</p> <p>The provisions are intended to ensure that the inability of witnesses to give evidence in court because, for example, they are self-isolating 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.</p>	

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
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 (CPOs) 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 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>The delegated powers relating to those provisions have not been used to date.</p>	<p>Schedule 4, paragraphs 12 and 13 <b>commenced and still in force</b></p> <p>Schedule 4, paragraphs 14 and 15 <b>not in operation.</b></p> <p>No change to status since last reporting period</p>
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	<p>In operation.</p> <p>The provisions have enabled Parole Board hearings to continue during</p>	<b>Commenced and still in force</b>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		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.	the reporting period. From 23 March to the end of October 99% of Tribunals/Oral Hearings scheduled have been heard successfully with only 3 of 760 unsuccessful.	No change in status since the last reporting period.
First Scottish Act	Section 5 and schedule 4, Part 8 - Release of prisoners	See section <a href="#">7.1.5</a>	Not in operation  Supplementary information provided – see section <a href="#">7.1.5</a> for further information.	<b>Commenced and still in force</b>  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	In operation  However, analysis by Scottish Legal Aid Board indicates that legal aid providers are not making full use of the financial support available. SLAB reported 46% of active civil firms and 64% of active criminal solemn firms, have not made use of the	<b>Commenced and still in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		be able to apply for interim payment.	availability of interim payments which were intended to provide an immediate revenue stream to firms.  Research into this lower than expected uptake is underway.	
First Scottish Act	Section 6 and schedule 5 – Alcohol licensing and section 7 and schedule 6, Part 1 - Licensing other than alcohol licensing	The Licensing (Scotland) Act 2005 and the Civic Government (Scotland) Act 1982 and associated statutory instruments 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	In operation  Licensing Boards and licensing authorities are responsible for the day to day 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 continuing to make use of the provisions include	<b>Commenced and still in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		the relevant authorities. Without legislative change, the impact of the coronavirus would result in people losing their licences through no fault of their own.	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.	
First Scottish Act	Section 7 and schedule 6, Part 2 – Freedom of Information (FOI)	See section <a href="#">7.1.6</a>	Section 7, schedule 6, part 2, paragraph 6 - in operation. Section 7, schedule 6, part 2, paragraph 7 – in operation Supplementary information provided – see section 7.1.6 for further information.	<b>Commenced and still in force</b>  No change to status since last reporting period
First Scottish Act	Section 7 and schedule 6, Part 3 - Duties in respect of	The provision allows statutory reporting requirements to be	In operation	<b>Commenced and still in force</b>

<b>Act</b>	<b>Provision</b>	<b>Description of provision</b>	<b>Operation of the provision in reporting period four (ending 30 November)</b>	<b>Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period</b>
	reports and other documents	postponed, and documents to be made available online instead of being made physically available.	These are generic provisions that apply to reporting and publication requirements across the public sector. The suspension of physical publication requirements is in use, 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.	No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
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.	<p>In operation</p> <p>All 32 councils have arrangements in place for remote meetings. It is the responsibility of councils to determine for themselves the governance arrangements they put in place and the Scottish Government has no locus in this decision.</p> <p>A recent briefing prepared by the Improvement Service<sup>21</sup> highlighted around half of councils reported or were found to be livestreaming meetings or allowing members of the public to participate (deputations etc.) in at least one meeting. Many of</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

<sup>21</sup> [An Update for SOLACE on 'Transitioning to the new normal: political governance \(improvement service.org.uk\)](https://www.improvementservice.org.uk/data/assets/pdf_file/0022/18292/SOLACE-update-political-governance-nov20.pdf)

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			<p>the councils that do not currently livestream or allow the public to participate, were exploring options for doing so.</p> <p>At this stage, it is anticipated that this provision will continue to be necessary until council offices can reopen to the public, without the need for social distancing, 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</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			<p>December 2020 this year, and 31 December 2021 next year.</p> <p>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 that during the resurgence of the virus, if for example, this is 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.</p>	
First Scottish Act	Section 8 and schedule 7, paragraphs 1 to 5 - Social security	See section <a href="#">7.1.7</a>	On <b>re-determinations</b> – Social Security Scotland has extended timescales allowed for re-	Paragraphs 1-5 have all been <b>commenced</b>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			<p>determinations on 24 occasions, taking an average 34 days to complete these re-determinations. Clients are citing COVID-19 reasons or difficulties for not being able to provide evidence sooner and on these occasions we are working with the client by extending and ensuring their application is determined as quickly as possible.</p> <p>On <b>appeals</b> - A small number of appeals have been accepted by the Tribunal, citing COVID-19 as a factor for accepting the late appeal. We have recently seen a Tribunal appeal decision which was partially allowed for Best Start Grant Early Learning Payment but not the</p>	<p>Paragraphs 1(b) and 5 are <b>in force</b></p> <p>Paragraphs 1(a), 2, 3 and 4 are <b>expired as they are spent provisions.</b></p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			School Age Payment where the client cited COVID-19 as their reason for the delay in applying. The Tribunal only allowed for one element of Best Start Grant as a result of the COVID-19 delay.	
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.	As a preventative measure it is not possible to quantify how effective it has been. However, anecdotally it has been working well in conjunction with the Code of Practice for the Commercial Property Sector to prevent evictions for non-payment of rent. Rather landlords and tenants are coming to mutually beneficial agreements on lease restructuring.	<b>Commenced and still in force</b>  No change to status since last reporting period
First Scottish Act	Section 8 and schedule 7, paragraphs 8 to 10 -	The provision provides that if planning permission or planning	In operation.	<b>Commenced and still in force</b>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
	Duration of planning permission	permission in principle was to lapse during the emergency period, then the period within which development is to be commenced is extended.	It would be disproportionate to request authorities or applicants to report on the individual uses of these powers. Whilst construction sites are permitted to remain open, it may take some time to deal with the 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.	The emergency and extended periods were amended by SSI 2020/366 under powers conferred by the Act. The emergency period will now end on 31 March 2021 and the extended period on 30 September 2021
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 is operating successfully. The Keeper of the Registers of Scotland will continue to update Parliament on its	<b>Commenced and still in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			operation via the Economy Energy and Fair Work Committee. The Keeper has agreed to consult with the Law Society of Scotland prior to declaring the property registers fully reopened, which in turn 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	In operation  Where bodies can be disposed of within the three year period, then they should. If however for reasons of excess demand on crematoriums or lockdown complications for example, as a result of coronavirus, then bodies can be retained within the extension period until the opportunity arises at	<b>Commenced and still in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		beyond the statutory three years.	crematoriums for their safe disposal.	
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.	<b>Commenced and still in force</b>  No change to status since last reporting period
First Scottish Act	Section 8 and schedule 7, paragraph 31 – Business Improvement Districts	The provision extends the duration of Business Improvement Districts (BIDs) that are due to end in the coming months or have recently	In operation  BIDs such as Clarkston, Edinburgh West End, Dunblane and others have all been able to deliver	<b>Commenced and still in force</b>  No change to status since the last reporting period.

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		ended, without the legal requirement to hold a ballot.	<p>critical COVID-19 responses in partnership with their local authorities and others.</p> <p>Given the impact of the crisis on our local economies, we are looking at further options to manage risks of successful re-ballots where BIDs have to re-ballot in the next 1-2 years, as it is likely that businesses will still be facing reduced incomes and challenging conditions. Further legislative provisions are not considered possible.</p>	
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	<p>Not in operation</p> <p>As provided for by SSI 2020/260, the provision was suspended during this reporting period, from 1 October.</p>	<b>Suspended</b>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		in which the provisions are in force. In ordinary circumstances, Muirburn season runs from 1 October to 15 April inclusive in Scotland.		
Second Scottish Act	Section 2, schedule 1, Part 1 - Student residential tenancy: termination by tenant	See section <a href="#">7.2.1</a>	In operation  Supplementary information provided at <a href="#">7.2.1</a>	<b>Commenced and still in force</b>  No change to status since last reporting period.
Second Scottish Act	Section 2, schedule 1, Part 2 - Tenancies: pre-action requirements for order for possession or eviction order on ground of rent arrears	See section <a href="#">7.2.2</a>	In operation.  Supplementary information provided – see section <a href="#">7.2.2</a> for further information.	<b>Commenced and still in force</b>  No change to status since last reporting period.
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	In operation  This provision is still required for backdated payments of the	<b>Commenced and still in force</b>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		additional £230.10 to awards of Carer's Allowance Supplement for the period from 1 April 2020 to 30 September 2020.	Coronavirus Carer's Allowance Supplement which will be made in December 2020, and potentially future dates.	No change to status since last reporting period
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 reduced income and	<p>In operation</p> <p>The Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020 (SSI 2020/188) commenced on 24 June 2020.</p> <p>Social care provider representative organisations have carried out surveys of their member providers, and the majority who took part have used the Social Care Staff Support Fund to top-up the income of workers who have been off ill with</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		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.	coronavirus, or self-isolating.  The Scottish Government continues to work with Integration Joint Board Chief Finance Officers to develop better financial reporting information around support provided to social care providers. This includes use of the Social Care Staff Support Fund.	
Second Scottish Act	Section 2, schedule 1, Part 5 – Bankruptcy	The provisions protect those in unsustainable debt by making bankruptcy more accessible, they provide that: the Minimal Asset Process (MAP) fee is reduced to £50; no fee will be payable in MAP cases for those receiving certain	In operation  In the period between 27 May and 31 October, there were 1,095 new applications for bankruptcy which benefitted from the reduced application fee – 868 (79.3%) of which paid no application fee at all.	<b>Commenced and still in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		<p>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, 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.</p>		

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
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>These provisions retain all the safeguards for the patient and are being applied to minimise any delay in the operation of the Mental Health Tribunal Scotland which is responsible for determining certain detentions</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period.</p>
Second Scottish Act	Section 2, schedule 1, Part 7 – Care Homes	See section <a href="#">7.2.3</a>	<p>Not in operation</p> <p>Supplementary information provided – see section</p>	<p><b>Commenced and still in force</b></p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			<a href="#">7.2.3</a> for further information	No change to status since last reporting period
Second Scottish Act	Section 2, schedule 1, Part 8 - Powers to purchase care home services and care at home providers	See section <a href="#">7.2.4</a>	Not in operation  Supplementary information provided – see section <a href="#">7.2.4</a> for further information	<b>Commenced and still in force</b>  No change to status since last reporting period
Second Scottish Act	Section 2, schedule 1, Part 9 - Care homes: further provisions	See section <a href="#">7.2.5</a>	In operation  Supplementary information provided – see section <a href="#">7.2.5</a> for further information	<b>Commenced and still in force</b>  No change to status since last reporting period
Second Scottish Act	Section 2, schedule 1, Part 10 – Marriage and civil partnership	See section <a href="#">7.2.6</a>	In operation  Supplementary information provided – see section <a href="#">7.2.6</a> for further information	<b>Commenced and still in force</b>  No change to status since last reporting period
Second Scottish Act	Section 3, schedule 2, Part 1 – Criminal justice - Criminal proceedings:	Paragraph 1 of schedule 2 makes provision to extend certain statutory time limits contained in	In operation  Delays in progressing criminal cases as a result	<b>Commenced and still in force</b>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
	extension of time limits	the Criminal Procedure (Scotland) Act 1995 relating to criminal proceedings.	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.	No change to status since last reporting period
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	<b>In operation</b>	<b>Commenced and still in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		connected with such appearances, to be performed by Prisoner Custody Officers.		
Second Scottish Act	Section 3, schedule 2, Part 1 Criminal justice - Expiry of undertaking under section 25(2)(a) of the Criminal Justice (Scotland) Act 2016	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 the time at which the person who gave it is to appear at court when certain conditions are met.	<p>In operation</p> <p>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 appear at court.</p> <p>By preventing the expiry of undertakings in this way, the measure has allowed COPFS to review the previously extended undertaking timescales, so dates may revert back to within 28 days of liberation, and 14 days for domestic abuse cases.</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			<p>Retaining this provision will ensure the court continues to have the power to prevent the expiry of an undertaking and any conditions attached to it if a person fails to appear at court as required by the terms of their undertaking, the court considers that the failure to appear is attributable to a reason relating to coronavirus and it is not appropriate to grant a warrant for the person's arrest.</p> <p>This enables the preservation of protective conditions of undertaking that may otherwise be lost where a person fails to attend court due to coronavirus and is a key measure to preserve public and victim safety during</p>	

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			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 <a href="#">7.2.7</a>	In operation  Supplementary information provided – see section <a href="#">7.2.7</a> for further information	<b>Commenced and still in force</b>  No change to status since last reporting period
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	<b>In operation</b>  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	<b>Commenced and in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		<p>circumstances” includes the effect (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>	<p>not treated unfairly or disproportionately throughout this period if they have been unable to pay a confiscation order for reasons related to coronavirus.</p>	

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
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) 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	<p>In operation</p> <p>The disruption to usual court access by members of the public is expected to continue. In addition the expansion of remote hearings has further reduced public attendance in court buildings. These provisions help to ensure that documents can continue to be made publically available, as required or permitted by statute. There are no alternatives which would prevent users of the justice system from adhering to rules for physical distancing and minimising contact.</p> <p>Reverting to placing documents on the walls of court as a means of public</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		arising from the potential publication of sensitive data on the SCTS website.	display would be irreconcilable with rules for physical distancing and minimising contact.	
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	Not in operation (expired).	<p><b>Expired as a spent provision</b></p> <p>No change to status since last reporting period</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		established – via regulations - a national Nitrogen Balance Sheet (the deadline is 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).		
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	In operation for the financial year ending 31st March 2020 only.	<b>Expired as a spent provision</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		relate. Instead, they must be provided within nine months of the end of the period to which they relate.		
Second Scottish Act	Section 4, schedule 3, Part 3 – Accounts under the Public Finance and Accountability (Scotland) Act 2000	<p>This provision makes an 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.</p> <p>The provision allows by further regulation amendments to the Public Finance and Accountability (Scotland) Act 2000 as it applies to accounts that</p>	In operation	<p><b>Expired as a spent provision</b></p> <p>No change to status since last reporting period.</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		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)	Not in operation (expired)  The regulation making powers have not been used since the provisions came into force.	<p><b>Expired as a spent provision</b> No change to status since last reporting period</p> <p><b>Expired as a spent provision</b> No change to status since last reporting period</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		(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 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.	Not in operation (expired)	<b>Expired as a spent provision</b>  No change to status since last reporting period
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	In operation.  It would be unduly burdensome to request authorities or applicants to report on the individual uses of these powers. Whilst construction sites are permitted to remain	<b>Commenced and still in force</b>  The emergency and extended periods were amended by SSI 2020/254 under powers conferred by the Second Scottish Act. The

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		<p>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 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</p>	<p>open, it may take some time to deal with the 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.</p>	<p>emergency period will now end on 31 March 2021 and the extended period on 30 September 2021.</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		end of the extended period. It enables the Scottish Ministers to make regulations to amend the definition of the emergency and extended periods.		
Second Scottish Act	Section 5, schedule 4, Part 3 - Registers kept by the Keeper of the Registers of Scotland	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 and by the Keeper of the Registers of	In operation  The portal for the submission of digital applications providing access to the Register of Inhibitions and Register of Judgments is operating successfully. The Keeper of the Registers of Scotland will continue to update Parliament on its operation via the Economy, Energy and Fair Work Committee.	<b>Commenced and still in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		documents and copies of documents.		
Second Scottish Act	Section 5, schedule 4, Part 4 - Care services: giving of notices by the Care Inspectorate	See section <a href="#">7.2.8</a>	In operation  Supplementary information provided – see section <a href="#">7.2.8</a> for further information.	<b>Commenced and still in force</b>  No change to status since last reporting period
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	Not in operation (expired)	<b>Expired as a spent provision</b>  No change to status since last reporting period.

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		the Act applies, where the Scottish Ministers are satisfied that this is appropriate for a reason related to coronavirus.		
Second Scottish Act	Section 5, schedule 4, Part 6 – Non-Domestic Rates relief	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 rates. 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	In operation	<b>Expired as spent provision</b>  No change since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		<p>regulations (including a period beginning prior to the regulations being made). 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 regulations that are amended provide for such relief to continue until and including 31 March 2021.</p>		
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	<p>In operation</p> <p>Personal attendance to execute documents and administer oaths in person etc. remains difficult as a</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		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.	result of physical distancing, and these provisions require to remain in place.	
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	In operation  Paragraph 12 is in operation and the Scottish Ministers laid their first report to Parliament <sup>22</sup> on 9 October – covering the period 27 July to 26 September. The third report is due to be laid in Parliament in December.	<b>Commenced and still in force</b>  No change to status since last reporting period

<sup>22</sup> Report on the Scottish Ministers' handling of requests for information under the Freedom of Information (Scotland) Act 2002 for the period from 27 July to 26 September 2020: [Coronavirus \(Scotland\) \(No.2\) Act 2020: second report on the Scottish Ministers' responses to requests for information under the Freedom of Information \(Scotland\) Act 2002 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/coronavirus-scotland-no-2-act-2020/second-report-on-the-scottish-ministers-responses-to-requests-for-information-under-the-freedom-of-information-scotland-act-2002/pages/12.aspx)

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		out the information to be included in each report.		
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 towards establishing low emission zones under Part 2 of the Transport (Scotland) Act 2019.	In operation.  A report is being prepared (to be laid in Parliament by the 4 December) on the progress being made toward establishing low emission zones	<b>Commenced and still in force</b>  No change to status since last reporting period
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	There is no central data collected on the extent of use of this provision, and there are no plans to collate information of this nature. The provision is proportionate and the status at this time of commenced and still in force is appropriate.	<b>Commenced and still in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		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.		
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 maximum	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	<b>Commenced and still in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		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.	Authorities continue to indicate that 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.	
Second Scottish Act	Section 5, schedule 4, Part 12 - Restriction on giving grant to businesses connected to tax havens	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	In operation.  The provision is proportionate and the status at this time of commenced and still in force is appropriate	<b>Commenced and still in force</b>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		<p>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 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</p>	<p>However the relevant list of tax havens referenced by the provision has been amended.</p> <p>The 'EU List of Non-Cooperative Jurisdictions for Tax' was updated on 6<sup>th</sup> October, with Anguilla and Barbados being added, and Cayman Islands and Oman being removed</p>	

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		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	<p><b>In operation</b></p> <p>The powers have been used to re-register thousands of practitioners who left the various registers for a variety of reasons in recent years. Officials are currently working with the regulators to put in place arrangements for mapping available professionals with the workforce demands of Health Boards.</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period.</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		by the Secretary of State.		
UK Act	Section 4 and schedule 3 – Emergency arrangements concerning medical practitioners: Scotland	Section 4 introduces schedule 3 which makes temporary modifications to the National 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.	In operation  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.	<b>Commenced and still in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any 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 access registrants should they</p>	<p><b>Commenced and still in force</b></p> <p>No change in status since last reporting period</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			<p>need to recruit additional social workers.</p> <p>An increase in demand for all social work services was expected and therefore the temporary social work register continues to be necessary. As we approach winter and issues are possible in terms of workforce supply the Temporary register continues to be necessary.</p>	
UK Act	Section 10 and schedule 9 - Temporary modification of mental health legislation	See section <a href="#">7.3.1</a>	<p>Not in operation</p> <p>Supplementary information provided – see section <a href="#">7.3.1</a> for further information</p>	<p><b>Not yet commenced</b></p> <p>No change to status since last reporting period</p>
UK Act	Section 12 - Indemnity for health services activity: Scotland	The provision grants Scottish Ministers the discretionary power to make indemnity arrangements for any	Not in operation	<b>Commenced and still in force</b>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		person who is working within the NHS in Scotland, where the indemnity relates to coronavirus.	Scottish Ministers issued a direction <sup>23</sup> 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.	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: further provision	See section <a href="#">7.3.2</a>	Supplementary information provided – see section <a href="#">7.3.2</a> for further information	<p><b>Commenced</b></p> <p><b>Still in force</b> for children’s services.</p> <p>Suspended for adult services.</p>

<sup>23</sup> 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 four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
				<p>Section 16 was suspended in respect of adult services from 30 November</p> <p>(The Coronavirus Act 2020 (Suspension: Adult Social Care) (Scotland) Regulations 2020 (SSI 2020/377)).</p>
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.	<p>In operation</p> <p>The provisions have continued to operate successfully in this reporting period, facilitating remote registration of deaths and still-births to the same standard of accuracy as in-person registration but without unnecessary exposure to coronavirus, and given the efficiency of the process, to enable Local Authorities to better address other</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>



Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		(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.	This is by agreement and does not require legislative change.  Part 2 – in operation. In the first reporting period, Scottish Ministers made two determinations <sup>25</sup> (on 8 April 2020) which suspended certain provisions within the Burial and Cremation (Scotland) Act 2016 and the Cremation (Scotland) Regulations 2019. There has been no change to status since last 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.	In operation  The Investigatory Powers (Temporary Judicial Commissioners and	<b>Commenced and still in force</b>

<sup>25</sup> Coronavirus Act 2020 (C.7): determination under paragraph 8(1) of Schedule 14 (Cremations) - <https://www.gov.scot/publications/coronavirus-act-2020-c7-direction-under-paragraph-81-of-schedule-14/>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
		<p>Judicial Commissioners are appointed by the Prime Minister, 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>Modification of Time Limits) Regulations 2020 (SI 2020/360)<sup>26</sup> 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 temporary judicial commissioners are no longer in post, but the need for this provision will be kept under review by the independent</p>	<p>No change to status since last reporting period</p>

<sup>26</sup> 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 four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			Investigatory Powers Commissioner.	
UK Act	Section 23 - Time limits in relation to urgent warrants under Investigatory Powers Act	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 Commissioners to carry out their functions.	In operation  The Investigatory Powers (Temporary Judicial Commissioners and Modification of Time Limits) Regulations 2020 (SI 2020/360) came into force on 27 March 2020 <sup>27</sup> . The provision is in use and has continued to be necessary in this reporting period. The variation to the urgent warrant procedure has ensured that intelligence and law enforcement agencies have the flexibility they need to protect national security and prevent serious crime. The need	<b>Commenced and still in force</b>  No change to status since last reporting period

<sup>27</sup> The Investigatory Powers (Temporary Judicial Commissioners and Modification of Time Limits) Regulations 2020 - <https://www.legislation.gov.uk/uksi/2020/360/made>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			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.	<b>Not yet commenced</b>  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	See section <a href="#">7.3.3</a>	Not in operation  Supplementary information provided – section <a href="#">7.3.3</a> for further information	<b>Commenced and still in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
	disclosure 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 <sup>28</sup> 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.	<b>Commenced and still in force</b>  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	See section <a href="#">7.3.4</a>	Not in operation	<b>Commenced and still in force</b>  No change to status since last reporting period

<sup>28</sup> Coronavirus (Scotland) (No.2) Act 2020: Report on Marriage and Civil partnership - <https://www.gov.scot/publications/coronavirus-scotland-no-2-act-2020-report-marriage-civil-partnership-2/>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
	educational institutions and childcare premises, and temporary continuity: 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.	In operation  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	<b>Commenced and still in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			pension benefits suspended.	
UK Act	Section 49 and schedule 19 - Health Protection Regulations: Scotland	See section <a href="#">7.3.5</a>	In operation  Supplementary information provided – see section <a href="#">7.3.5</a> for further information	<b>Commenced and still in force</b>  No 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 <a href="#">7.3.6</a>	Schedule 21 powers were “switched on” by way of statutory declaration in March 2020, however the powers have not been used in this reporting period.  Supplementary information provided – see section <a href="#">7.3.6</a> for further information	<b>Commenced and still in force</b>  No change to status since last reporting period
UK Act	Section 52 and Part 3 of schedule 22 - Powers to issue directions relating to events, gatherings and premises	See section <a href="#">7.3.7</a>	Schedule 22 powers were “switched on” by way of statutory declaration in March 2020, however the powers have not been used in this reporting period.	<b>Commenced and still in force</b>  No change to status since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			Supplementary information provided – see section <a href="#">7.3.7</a> for further information	
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 Scottish Ministers have the ability to take control of a component or components of the death management process.	Not in operation.  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 resurgence of the virus, the provisions should continue to be available. The Scottish Government has discussed this with the	<b>Commenced and still in force</b>  No change since last reporting period

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			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</p> <p>The provision 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</p> <p>In the fourth reporting period the provision was used four times – to postpone one and to further postpone three local government by-elections previously postponed using the provision. The provision</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Act	Provision	Description of provision	Operation of the provision in reporting period four (ending 30 November)	Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period
			has been used a total of 19 times to postpone 12 by-elections.	
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 by the Scottish Ministers or Welsh Ministers.</p> <p>As it applies to Scotland, the provision applies to the Energy Transition Fund, however no monies were</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

<b>Act</b>	<b>Provision</b>	<b>Description of provision</b>	<b>Operation of the provision in reporting period four (ending 30 November)</b>	<b>Status at end of reporting period four (30 Nov) and details of any change to status since last reporting period</b>
			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 originally increased the notice period across all eviction grounds in the private and social rented sector, except the abandonment and vacant property grounds. On 3 October 2020, regulations came into force, reverting the three month notice period for anti-social behaviour and criminality eviction grounds back to its prior one month/28 days' notice period. For the private rented sector, the provisions amend all the eviction grounds a landlord can use to regain possession to make them discretionary.
- 7.1.1.2 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 for all grounds other than the abandonment and vacant property grounds, and now also the anti-social behaviour and criminality grounds.

##### **Operation of Provision in Reporting Period**

- 7.1.1.3 Section 2, schedule 1, paragraph 1, sub paragraph 2 makes provision for all private rented sector eviction cases going before the First-tier Tribunal (Housing and Property Chamber) to be considered on a discretionary basis. As of 24 November 2020, the First-tier Tribunal (Housing and Property Chamber) confirmed that it had received 26 applications that fall within the scope of the emergency provisions.
- 7.1.1.4 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. Recently a number of Local Authorities and social and private landlords expressed significant concerns about the impact of anti-social and criminal behaviour on the safety and wellbeing of neighbours and wider communities over recent months. A range of evidence was submitted to support this including case studies from the Scottish Federation of Housing Associations, Glasgow and West of Scotland Forum of Housing Associations and COSLA. Furthermore, the Scottish Association of

Landlords (SAL) provided statistics relating to a summary of calls to their helpline during the period 1 April – 31 July 2020, compared to the same period in 2019. This showed an 88% increase in calls from landlords seeking advice on how to deal with anti-social behaviour by tenants. In addition, data from Housemark Scotland shows reports of anti-social behaviour in the social rented sector rose by 17% between May and June 2020, which was around 30% higher than would normally be expected in this period.

- 7.1.1.5 Therefore, in light of the substantial impact such behaviour can have on individuals and communities, Ministers exercised their powers under section 2 (schedule 1, paragraph 8) to revert the notice period for eviction grounds relating to anti-social behaviour and criminality across all tenancies back to its original one month notice period. The Coronavirus (Scotland) Act 2020 (Eviction from Dwelling-houses) (Notice Periods) Modification Regulations 2020 (SSI 2020/270)<sup>29</sup> were laid in Parliament on 4 September 2020 and came into effect on 3 October 2020. These regulations ensure that where landlords have clear evidence of anti-social or criminal behaviour, which cannot be resolved by other means, then they are able to take the necessary action to end the tenancy. It should be noted that Ministers can exercise their power under section 2 (schedule 1, paragraph 8) at any time during the lifetime of the emergency legislation. Therefore, should significant lockdown restrictions be re-introduced, which would require people to remain in their homes due to resurgence of the virus – Ministers could, subject to approval by the Parliament, reinstate a longer notice period for anti-social and criminal eviction grounds.
- 7.1.1.6 The provisions which extend notice periods 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.

### **Factors Considered to Determine Use and Continued Necessity**

- 7.1.1.7 In this reporting period, in order to assess the continued necessity of the provisions, the Scottish Government has considered various sources of information. Recent employment statistics show that the unemployment rate in Scotland in the latest period July to September 2020 is up by 0.5 percentage points over the year. In October, Scotland's unemployment claimant count was 214,800, an increase of 101,400 (89.3%) over the year<sup>30</sup>. There has also been a substantial increase in Universal Credit claims in recent months, with around 477,000 people in Scotland now on Universal Credit as at September 2020, almost double the number in

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<sup>29</sup> The Coronavirus (Scotland) Act 2020 (Eviction from Dwelling-houses) (Notice Periods) Modification Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/270/made>

<sup>30</sup> Scottish Government Labour Market Trends November 2020 - <https://www.gov.scot/publications/labour-market-trends-november-2020/>

January 2020<sup>31</sup>. As we move towards furlough ending there are significant concerns around the potential for further job losses.

7.1.1.8 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. 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 months<sup>32</sup>. Separate findings from a YouGov survey of adults in the UK carried out from 30 July to 2 August 2020 showed that the coronavirus crisis has had a greater impact on employment among people who rent than those who own their own home. Findings include that employees who rent are more likely to be unable to work at all as a result of the pandemic (9% compared with 3% of employed owners), are more likely to have been furloughed (15% compared with 11% of employed owners), and are also more likely to have been made redundant (6% compared with 2% of employed owners)<sup>33</sup>. More recently, findings from a Resolution Foundation / Health Foundation survey of UK working-age adults undertaken in September 2020<sup>34</sup> showed that private and social renters are now more than twice as likely than mortgagors to have lost their job, with more than one-in-six (17 per cent) of social renters reporting being behind on all or part of their housing costs, with nearly one-in-eight (12 per cent) of private renters unable to cover their rent in full.

7.1.1.9 A survey commissioned by the Joseph Rowntree Foundation in June 2020 showed that in the private rented sector in Scotland, almost half of tenants (45%) had seen a drop in their income since March 2020. Of those, seven in 10 (71%) had cut back on spending, and nearly six in 10 (58%) had to borrow or use up savings, the highest proportion of any tenure. In addition, four in 10 (42%) private renters were worried about their ability to pay rent after lockdown is lifted, and 25% of private tenants had already fallen behind with a payment, most likely gas, electricity and other bills<sup>35</sup>.

7.1.1.10 Housing advice data from Citizens Advice Scotland (covering the period February to October 2020) shows that housing advice provided on the private rented sector by their advisers rose from 17% of all housing advice in February up to 28% in October 2020. Furthermore, advice provided on private sector rent arrears as a percentage of all housing cost arrears advice rose to 16% in October, up from 6% in February. In addition, the number of enquiries seeking advice on private rented sector

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<sup>31</sup> Universal Credit Scotland Dashboard, September 2020 -

<https://www.gov.scot/publications/universal-credit-scotland-dashboard-october-2020/>

<sup>32</sup> Office for National Statistics Coronavirus (COVID-19) roundup -

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

<sup>33</sup> YouGov survey - <https://yougov.co.uk/topics/economy/articles-reports/2020/09/04/third-renters-worry-about-affording-food>

<sup>34</sup> <https://www.resolutionfoundation.org/publications/coping-with-housing-costs-six-months-on/>

<sup>35</sup> 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>

harassment/illegal evictions has risen in recent months, with an average of 35 enquiries per month being recorded from July to October 2020, almost double the level of 18 enquiries recorded in February and March 2020.

7.1.1.11 Monthly coronavirus information published by the Scottish Housing Regulator<sup>36</sup> shows that the total value of rent arrears in the social sector increased substantially from £150.0m to £165.0m in the four months between the end of April 2020 and the end of August, an increase of £15.0m (10.0%). The value of arrears has since remained at a relatively similar level across the latest two months, to stand at £164.0m as at end October 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, increasing to 376 in July, 647 in August, 801 in September and 1,014 in October. A total of 30 court actions for eviction were initiated in June, 89 in July, 85 in August, 102 in September, and 85 in October, levels which are significantly lower when compared to average monthly figures for previous years.

7.1.1.12 Housemark Scotland<sup>37</sup> reporting up to the end of September 2020 found from their members that the current arrears rate remain stable at 5.5%. This figure remains higher than other parts of the UK, where rates tend to be 4% of rent due minus void loss.

7.1.1.13 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, research findings by the Joseph Rowntree Foundation<sup>38</sup> found that, as at June 2020, there was not any sharp increase in rent arrears for private renters identified, 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, had increased from 8% in March, up to 13% in April, and then 14% in May<sup>39</sup>.

7.1.1.14 A survey of private landlords and agents by the Scottish Association of Landlords, carried out at the start of August 2020, found that many members had provided financial assistance to their tenants during the pandemic. Results showed that 44% of landlord and agent survey

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<sup>36</sup> Scottish Housing Regulator monthly Covid-19 dashboards - <https://www.housingregulator.gov.scot/landlord-performance/national-reports/monthly-covid-19-dashboards>

<sup>37</sup> Housemark Scotland Covid-19 monitoring impact data – <https://www.housemark.co.uk/media/2776/scotland-exec-summary-month-7.pdf>

<sup>38</sup> Joseph Rowntree Foundation research findings - <https://www.jrf.org.uk/blog/government-can-provide-housing-lifeline-coming-economic-storm>

<sup>39</sup> Bespoke analysis provided by PayProp, based on residential clients in Scotland who processed funds in all 5 months January to May 2020.

respondents had given a rent discount to their tenants, equating to 11% of properties having had a rent reduction in place.

- 7.1.1.15 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, as well as assisting in monitoring the impact, and continuing need for, these provisions. Meeting on a fortnightly basis, a key focus of the group's 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. More recently, the group has been examining the important role of Discretionary Housing Payments and how this can help sustain a tenancy, as well as engaging with Police Scotland on ensuring illegal evictions are dealt with effectively.
- 7.1.1.16 The Social Sector Resilience Group meets fortnightly 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.
- 7.1.1.17 Both the Social Sector and Private Rented Sector Resilience Groups are crucial in providing evidence to support the need for Ministers to use their powers to vary some of the notice periods which had been amended by the first Scottish Act, in order to address serious anti-social and criminal behaviour taking place in communities across Scotland.
- 7.1.1.18 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.
- 7.1.1.19 The full Wave 1 report from this research was published on 10 November, and key findings included:
- i. most tenants in Scotland feel secure in their properties, particularly when they have a good relationship with their landlord and feel able to pay their rent (the research will not have taken account of the impact of the pandemic, however, the Wave 2 research will include consideration of the impact of coronavirus on private renters), although where deprivation and lack of financial power is an issue, tenants still feel a sense of insecurity;
  - ii. most tenants are not aware of their rights (again, the findings won't take account of recent work to raise awareness of tenants' rights);
  - iii. identifies some areas which may merit refinement in the legislation from landlords' perspectives, but most landlords stated they wished to continue with their landlord business going forward. The report notes that "this data

should give reassurance and guidance to policymakers in other areas of the UK, as they consider similar changes to their private rented markets”.

7.1.1.20 It should be noted that Wave 1 of the research did not include the impact of the pandemic on private renters, which will feature within Wave 2.

7.1.1.21 The Scottish Government assessed the potential impact of these provisions for tenants in relation to 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.

7.1.1.22 The impact on a landlord’s human rights was also considered, with regards to their ability to control their property in relation to Article 1 of Protocol No.1 to the European Convention on Human Rights (ECHR). 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.

7.1.1.23 In light of the publication of Scotland’s Strategic Framework approach to suppressing the virus to the lowest level possible, consideration has been given in the review of the proportionality and necessity of these provisions, to the detrimental impact of a landlord not being able to take action to resolve serious cases of anti-social or criminal behaviour. However, that consideration has not resulted in any changes during the reporting period to the continuing need for tenants across both the social and private rented sectors to be protected against eviction, for all other eviction grounds.

7.1.1.24 Briefing from the Joseph Rowntree Foundation<sup>40</sup> provides some information on the known impacts of the financial pressures related to the pandemic on people with one or more of the protected characteristics, 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.
- 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.

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<sup>40</sup> Joseph Rowntree Foundation briefing - <https://www.jrf.org.uk/report/stronger-scottish-lifeline-economic-storm>

7.1.1.25 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%<sup>41</sup>. The legislative measures continue to prevent all renters across all protected characteristics from being evicted during the current crisis. Research carried out by the Resolution Foundation in May 2020<sup>42</sup> 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 (56%) of all highest income householders aged 16 to 24 live in the private rented sector, a total of 60,000 households<sup>43</sup>. 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.

7.1.1.26 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 sector<sup>44</sup> and 120,000 children living in the private rented sector<sup>45</sup>.

7.1.1.27 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.

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

### **Description of provisions**

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<sup>41</sup> Social tenants in Scotland 2017 - <https://www.gov.scot/publications/social-tenants-scotland-2017/pages/1/>

<sup>42</sup> Resolution Foundation: young workers in the coronavirus crisis - <https://www.resolutionfoundation.org/app/uploads/2020/05/Young-workers-in-the-coronavirus-crisis.pdf>

<sup>43</sup> Scottish household survey 2019: annual report - <https://www.gov.scot/publications/scottish-household-survey-2019-annual-report/>

<sup>44</sup> Social tenants in Scotland 2017 - <https://www.gov.scot/publications/social-tenants-scotland-2017/pages/1/>

<sup>45</sup> Scottish household survey 2018: annual report - <https://www.gov.scot/publications/scotlands-people-annual-report-results-2018-scottish-household-survey/>

- 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 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 kinship care 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. Guidance<sup>46</sup> 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; the second reporting period 21 May to 15 July 2020, the third reporting period 16 July to 13 September 2020 and the fourth reporting period 14th September 2020 to 15th November 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

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<sup>46</sup> 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>

(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).

- 7.1.2.7 In the first reporting period, there were 83 CPOs<sup>47</sup>; in the second reporting period there were 99 CPOs; in the third reporting period there were 92 CPOs; in the fourth reporting period there were 105 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; in the second reporting period one CAO was initiated<sup>48</sup>; in the third reporting period there were no CAOs and in the fourth reporting period one CAO was initiated. 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<sup>49</sup>. 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

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<sup>47</sup> This data was provided by SCRA.

<sup>48</sup> This data was provided by the SCTS.

<sup>49</sup> This data is from Children's Hearings Scotland (CHS). It comes from reports from Area Support Teams (AST) 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 AST to report when the powers have been used.

provisions can be used simultaneously (where, for example, a panel consists of 2 panel members of the same gender).<sup>50</sup>

- 7.1.2.11 In the third reporting period, 18 hearings had fewer than 3 panel members in attendance, and 11 did not have both male and female members<sup>51</sup>. 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 26.
- 7.1.2.12 In the fourth reporting period, 47 hearings had fewer than 3 panel members in attendance, and 38 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 77. This reporting period has seen an increase in the number of hearings using the emergency legislation compared to previous reporting periods. There are two key contextual factors to this increase (1) increasing hearing activity will result in a natural rise in numbers associated with hearings taking place and (2) at the start of the fourth reporting period, the National Convener authorised the planned use of the emergency legislation where it is known in advance that it would not be possible to rota a 3-member, mixed gender panel to a hearing. Using the emergency legislation is deemed preferable to delaying hearings as a result of panel members of either gender being unavailable. Use of the emergency legislation remains, however, a last resort when all other possibilities have been exhausted.
- 7.1.2.13 Since the powers came in to force, therefore, 92 hearings have had fewer than 3 panel members in place, and 68 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 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 139 hearings (6 from the first reporting period, 30 from the second, 26 from the third and 77 from the fourth).
- 7.1.2.14 It is expected that, as hearings activity continues to increase and as local restrictions continue to change in line with infection rates, there will be increased necessity to use the emergency powers to ensure decisions can still be made for the children and young people entering the hearings system and those who have their hearings delayed due to COVID-19.

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<sup>50</sup> 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.

<sup>51</sup> The data for the third and fourth reporting periods is a combination of responses to the survey on the composition of panels at hearings, and AST notifications to the National Convener of when the powers have been used.

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

- 7.1.2.15 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.
- 7.1.2.16 Within the first reporting period there were 467 CSOs, where orders were extended beyond their expiry date<sup>52</sup>. Within the second reporting period there were 865 CSOs, where orders were extended beyond their expiry date. In the third reporting period there were 956 CSOs where orders were extended beyond their expiry date. In the fourth reporting period there were 1,039 CSOs where orders were 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.
- 7.1.2.17 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 has been increasing the number of hearings as restriction measures have been reducing. This has been by arranging face to face hearings, sometimes with some participants attending remotely, but also by continuing to maintain the number of virtual hearings.
- 7.1.2.18 Reporters are reviewing the use of this provision on a case by case basis, and 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. The Principal Reporter has applied a prioritisation framework to enable the timely consideration of individual cases and is closely monitoring the situation with a view to arranging such hearings as soon as practicable. Service user availability, views and preferences for rescheduling are some of the elements of 'practicability' and are considered alongside the need for a child to come to a hearing and the risk for the child. SCRA continues to make active decisions about the need to extend any

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<sup>52</sup> 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 three periods, it has had to re-run period one and period two data. This has resulted in small changes in some of the figures 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.

extant CSO following dialogue with social workers and families and if families indicated they would want to have their hearing it has been arranged wherever possible.

7.1.2.19 Although the provision has been used extensively, the number of expiry review Hearings that have actually taken place has been increasing over the period. During the first reporting period there were 109 children's hearings when CSOs were due to expire. During the second reporting period there were 149 children's hearings when CSOs were due to expire. In the third reporting period there were 287 children's hearings when CSOs were due to expire. In the fourth reporting period there were 1,012 children's hearings when CSOs were due to expire. 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. This 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. In order to recover SCRA will need to arrange the expiry reviews within a given month alongside those reviews where the end date of extant orders have been extended by virtue of the legislation. This means that the operating capacity of the hearing system has to increase beyond the capacity it had at the beginning of March 2020.

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

7.1.2.20 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 IVCSO 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.

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

7.1.2.22 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**

<b>Interim Order Type</b>	<b>Coronavirus Report 1</b>	<b>Coronavirus Report 2</b>	<b>Coronavirus Report 3</b>	<b>Coronavirus Report 4</b>	<b>Total</b>
<b>ICSO</b>	270	366	452	489	1,577
<b>IVCSO</b>	151	147	174	176	648
<b>Court ICSO / IVCSO (including following appeal)</b>	223	271	291	243	1,028
<b>Total</b>	<b>644</b>	<b>784</b>	<b>917</b>	<b>908</b>	<b>3,253</b>

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

7.1.2.23 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 28 interim orders authorising the use of secure accommodation, 12 used the extended timescales which are available under the provision. In the third reporting period of 26 interim orders authorising the use of secure accommodation, 11 used the extended timescales which are available under the provision. In the fourth reporting period of 22 interim orders authorising the use of secure accommodation, 16 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**

7.1.2.24 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 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, across all 3 reporting periods. Section 4 and schedule 3, Part 1, paragraph 6 expired as of 29 September 2020. Further detail on the decision to expire the provision is included within

the Policy Note<sup>53</sup> which accompanies the Coronavirus (Scotland) Acts (Early Expiry of Provisions) Regulations 2020.

### **Modification of certain time limits for making and determination of appeals**

- 7.1.2.25 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.
- 7.1.2.26 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 16<sup>th</sup> November 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.
- 7.1.2.27 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 103 appeals of decisions in relation to a CSO that have been determined in the period 7 April to 16<sup>th</sup> November 2020, and the average time taken from the date of the children's hearing to the determination of the appeal was 46 days.
- 7.1.2.28 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 149 appeals of ICSOs determined in the period 7 April to 16<sup>th</sup> November 2020, and the average time taken from the date of the children's hearing to the determination of the appeal was 20 days (please note that appeals may not have been lodged until several days after the hearing).
- 7.1.2.29 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 8 appeals of relevant person determinations (made by a children's hearing or a pre-hearing panel) in the period 7 April to 16<sup>th</sup> November 2020 and the average time taken from the date of the children's hearing to the determination of the appeal was 26 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).
- 7.1.2.30 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

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<sup>53</sup> The Coronavirus (Scotland) Acts (Early Expiry of Provisions) Regulations 2020 Policy Note - <https://www.legislation.gov.uk/ssi/2020/249/policy-note/contents>

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 16th November 2020.

- 7.1.2.31 Schedule 3, paragraph 7 sub paragraphs (6), (7) and (8) extends the time limit for lodging appeals to the Sheriff Appeal Court or Court of Session in relation to certain decisions made by sheriffs under the 2011 Act. The time limit is extended from 28 days to 56 days. There have been no appeals made against decisions to which the extended time limit applies in the period 7 April to 16th November 2020.

### **Dispensation with physical attendance at children's hearings**

- 7.1.2.32 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.

- 7.1.2.33 The majority of the 8575 children's hearings that have taken place over the 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. Since the end of July 2020, SCRA has opened up children's hearings centres in a safe, socially distanced manner and the number of hearings where children and families have been able to attend in person has increased.

### **Authentication of children's hearings documentation by electronic signature**

- 7.1.2.34 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 8575 children's hearings held over the reporting periods.

### **Looked after children provisions**

- 7.1.2.35 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. Where possible, Local Authorities have adhered to the previous timescales, but the provisions have allowed additional flexibility in pressured situations which has allowed Local Authorities to take into account the views of the children and where possible keep children within their extended families.

- 7.1.2.36 22 Local Authorities across Scotland have been able to provide data on the use of these provisions from 1 September to 31 October 2020. 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.

7.1.2.37 The provisions have been used to allow more than three children to be placed with a foster carer fifteen times during the third reporting period. There have been two 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 kinship reviews have been extended three times during the fourth reporting period.

7.1.2.38 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 over the winter which could place additional pressure on foster or kinship placements.

### **Factors Considered to Determine Use and Continued Necessity**

7.1.2.39 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 obligations under the UN Convention on the Rights of the Child.

7.1.2.40 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.

7.1.2.41 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 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 2 - Vulnerable adults**

### **Description of Provisions**

- 7.1.3.1 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**

The Coronavirus (Scotland) Act 2020 (Suspension: Adults with Incapacity) Regulations 2020 suspended schedule 3, Part 2, paragraphs 11(2) and 11(3) of the first Scottish Act which relate to guardianship and s.47 provisions. The suspension was effective from 30<sup>th</sup> September 2020.

### **7.1.3.2 Factors Considered to Determine Use and Continued Necessity**

#### **Paragraph 11(2) and (3)**

- 7.1.3.3 The powers to ‘stop the clock’ on the duration of guardianship orders and section 47 certificates commenced on 7 April 2020. On 30 September 2020, at the beginning of the period of suspension, the time remaining on the orders and certificates resumed and applicants have to renew their guardianship or obtain another certificate as per the usual procedure.
- 7.1.3.4 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.
- 7.1.3.5 In order to monitor the relevant factors a stakeholder group has been formed which is meeting every 2-3 weeks to consider the evidence available for continuation of the suspension of the provisions. The factors which have been taken into consideration are the availability of the courts, the Office of the Public Guardian and relevant health professionals, as well as consideration of the human rights aspects of using the provisions. Representatives from organisations that can speak to these factors are on the group. The remit of the group and the notes from their first meeting are publically available<sup>54</sup>.
- 7.1.3.6 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 guardianship cases as business as usual.
- 7.1.3.7 The Office of the Public Guardian have all staff available and are also processing guardianship cases as business as usual.

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<sup>54</sup> Adults with Incapacity Emergency Legislation Commencement Consideration Group  
<https://www.gov.scot/groups/adults-with-incapacity-emergency-legislation-commencement-consideration-group/>

- 7.1.3.8 There remain challenges in obtaining medical and mental health officer reports to support adults with incapacity applications and renewals.
- 7.1.3.9 The stakeholder group continues to monitor the situation and is looking at collating a wider range of evidence with which to inform Ministers. However there is not enough information at present to recommend reinstatement of the temporary provisions.

## **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 for certain set periods of time i.e. the suspension of the relevant time limits are not for indefinite periods of time.
- 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 may have an impact on the rights guaranteed by Articles 5(3) and 6(1) of the ECHR. However, the Scottish Government considers that these increases are compatible 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. These safeguards are relevant to ensuring that these provisions are proportionate.

### **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 Act was commenced, or began after the Act commenced.

## **Factors Considered to Determine Use and Continued Necessity**

- 7.1.4.5 The court system continues to be under significant pressure with a backlog of cases building. Steps are being taken to seek to address this. High Court trials restarted in July (20 July in Edinburgh and 21 July 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.
- 7.1.4.6 In addition, the Scottish Government has provided funding of £5.5 million to SCTS to establish the ground-breaking solution of remote jury centres to rapidly increase the number of Scottish High Court trials. The use of these jury centres, based in cinema complexes - with the availability of reliable and modern technology, coupled with the ability to provide nationwide participation and a streamlined contractual process - is regarded as the most credible and deliverable proposition to take forward jury trials in the current COVID-19 context. The first trials will get underway on 28 September 2020 in Edinburgh, and 12 October 2020 in Glasgow.
- 7.1.4.7 The move towards remote jury centres will assist in preventing further backlogs building up in the High Court, but further work will continue to be required to address the existing backlog and the serious issues also present in Sheriff and Jury cases.
- 7.1.4.8 Summary criminal trials will return in some volume over time, with lower case loadings (trials will be scheduled in reduced numbers to ensure physical distancing is maintained). This of course does not mean the summary courts will be dealing with the backlog of cases that has built up, but will help ensure an improved flow of cases to reduce the rise in the backlog.
- 7.1.4.9 Justice Analytical Services is working with SCTS to collect data to monitor the backlog of cases in the courts, which will help inform future assessments of the continuing need for this extension of time limits. However, with crime levels back to near pre-COVID-19 levels and the courts still operating at some way below pre-COVID-19 levels, the need for flexibility in time limits clearly remains and is likely to do so for a considerable time.
- 7.1.4.10 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 COVID-19 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.
- 7.1.4.11 The Scottish Government keeps under review the necessity for the extended time limits contained within Part 4 of schedule 4 of the first Scottish Act. It is however the case that while some courts are operating in

a way they were not at the time of the legislation being passed in April 2020, there is a significant backlog of cases continuing to grow as the court system is some considerable way off returning to its normal operation. This is also within the context that crime levels are back to near pre-COVID-19 levels. Even once courts are operating more normally, a backlog of cases will exist whereby the operation of extended time limits will potentially be necessary. At this time, the Scottish Government considers the extended time limits continue to be necessary with an accused's person rights continuing to be protected through the operation of the system of bail reviews which an accused person can seek at any time under section 30 of the Criminal Procedure (Scotland) Act 1995 if information was provided material to the decision that was not available when the accused was remanded. This can be used where, for example, the continuing impact on the operation of the courts means timings for when a case will be heard have changed.

## **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)<sup>55</sup> and the Criminal Justice (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 (SSI 2020/137)<sup>56</sup> were made by Scottish Ministers and came into force on 4 May 2020, and operated for 28 days until 1 June 2020. As such the powers were applied in the first and second reporting period, but have not been utilised since then.

- 7.1.5.3 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 reports on the first and second reporting periods.

### **Factors Considered to Determine Use and Continued Necessity**

- 7.1.5.4 The Scottish Government considers that the May/June release process was a proportionate measure which helped deliver the necessary and timely reduction in the prison population. This provided the necessary capacity and operational flexibility for the Scottish Prison Service (SPS) to manage the needs of prisoners to shield or self-isolate, as well as protecting the

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<sup>55</sup> The Release of Prisoners (Coronavirus) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/138/contents/made>

<sup>56</sup> The Criminal Justice (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 - <http://www.legislation.gov.uk/ssi/2020/137/contents/made>

health of prison staff, and managing the higher levels of staff absence caused by ill-health and health protection measures.

- 7.1.5.5 However, given the potential for a future resurgence of the virus and a possible resultant need for greater restrictions and protective measures within the prison system (as have already been necessary on a local basis on a number of occasions), and the potential for increases in the prison population, it may become necessary to utilise these powers again to maintain safe and effective operations of prisons, and protect the health of prison staff and prisoners. The Scottish Government will continue to engage with SPS in relation to the potential use of these powers, as one aspect of wider ongoing discussions of the impact of coronavirus on the prison system, and the safe management of the prison population. The Scottish Government will also liaise with other justice sector stakeholders who are most impacted by the prisoner release measures.
- 7.1.5.6 As with the previous use of this power, any decisions on future release of additional prisoners would be made with regard to the legislative requirements contained in the first Scottish Act, and wider public safety and human rights concerns. It would require the production of regulations specifying the eligibility criteria and handling of the process, which would be laid before Parliament for scrutiny and approval.
- 7.1.5.7 The first and second two-monthly reports on the Coronavirus Acts have included detail on the factors considered to determine the previous use of these powers, including the engagement with wider stakeholders for the planning and delivery of the release process, and the particular consideration given to equality, human rights, and domestic abuse impacts.

## **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 third 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 third 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 circumstances. Information in respect of the use of this element of the provision 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 Physical distancing measures remain in place and at the present time home-working remains the default position for most office-based workers in Scotland. When circumstances do allow the reopening of more indoor office spaces, this will take place on a phased basis to ensure safety. Therefore, 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 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 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 a clients' ability to gather information requested in support of their redetermination, the extended timelines for redetermination should remain in place.
- 7.1.7.4 Social Security Scotland 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 Evidence suggests that these provisions, including provisions to extend the timescales allowed for re-determinations and appeals, are of benefit to clients – for example, clients have cited delays in obtaining evidence that they wish to submit.
- 7.1.7.6 During the period in which provisions have been in force, Social Security Scotland has extended the timescales for a re-determination on 24 occasions, taking an average 34 days to complete these re-determinations. Clients are citing COVID-19 as the reason for not being able to provide evidence sooner and on these occasions. Social Security Scotland is working with the clients by extending and ensuring their application is determined as quickly as possible. A small number of appeals have been accepted by the Tribunal, citing COVID-19 as a factor for accepting the late appeal. A recent Tribunal appeal decision was partially allowed for Best Start Grant Early Learning Payment but not the School Age Payment where the client cited COVID-19 as their reason for the delay in applying. The

Tribunal only allowed for one element of Best Start Grant as a result of the COVID-19 delay.

- 7.1.7.7 Social Security Scotland's continuing 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, Social Security Scotland 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 was 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 Section 2, Schedule 1, Part 1 of the Coronavirus (Scotland) (No.2) Act 2020 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 occupied the property before 27 May 2020; and a 28 day notice period for those who have already entered into a student residential tenancy but have not yet occupied the property before 27 May 2020, and for where 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 consulted 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.
- 7.2.1.5 That survey of Higher Education Institutions (HEIs) and private sector providers of Purpose Built Student Accommodation (PBSA) took place in October and early November 2020. The survey covered the period May to mid-November 2020. There were eleven responses. 64% of respondents were HEIs, and 36% were private sector providers of PBSA.
- 7.2.1.6 Major locations include Glasgow, Edinburgh, Aberdeen and the Central Belt. Survey respondents provide a range of accommodation across Scotland, from shared self-catering rooms with shared facilities, to fully catered en-suite rooms. Residents include undergraduates, postgraduates, families and staff affiliated with the responding institutions.
- 7.2.1.7 All of the responding providers were landlords of PBSA. Respondents' portfolios include PBSA that is directly owned and operated by HE institutions; long lease, nominations developments and PBSA operated on behalf of HE institutions via management contracts; and PBSA owned and operated within the private sector.
- 7.2.1.8 All respondents reported current occupancy rates as either a bit lower (45.5%) or much lower (54.5%) than at the same time last year.
- 7.2.1.9 Four respondents provided information relating to building closures. Each of these respondents were at different stages in a process of closing or considering closing some of their properties, and for one of these respondents closures were not attributable to COVID-19.
- 7.2.1.10 73% of responding providers have used the Student Information Portal. Suggestions for improvement to the Portal focused on tailoring available information to local areas or regions, including to reflect COVID-19 restrictions in place across different areas.
- 7.2.1.11 81% of respondents have made students aware of the provisions of the Act in relation to tenancies through FAQs on their respective websites, inductions, e-mail communications or in the tenancy application process. Some respondents had not taken any action to make students aware of the provisions.
- 7.2.1.12 Over 6,500 notices to leave have been lodged with providers who responded to the survey since the Act came into force on 27 May 2020. 70% of respondents advised this was much higher than last year. There was a wide range of responses to this question, with the number of notices to leave not evenly distributed across providers.

7.2.1.13 21% of these notices to leave related to the seven day notice period, with the remainder (79%) relating to the twenty-eight day notice period.

### **Factors Considered to Determine Use and Continued Necessity**

7.2.1.14 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.

7.2.1.15 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.

7.2.1.16 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. The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020<sup>57</sup> (SSI 2020/304) came into force on 30 September 2020.

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<sup>57</sup>The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/304/contents/made>

## **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 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 formalises 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.

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

- 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 have not 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 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 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. 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.
- 7.2.3.12 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.
- 7.2.3.13 Powers under section 65B were used in the second reporting period and as a result, the Care Homes Emergency Intervention Orders (Coronavirus)

(Scotland) Regulations 2020 (SSI 2020/201) <sup>58</sup> 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.

7.2.3.14 No further regulations have been made under powers in section 65B during this fourth reporting period.

### **Factors Considered to Determine Use and Continued Necessity**

7.2.3.15 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.

7.2.3.16 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.

7.2.3.17 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 immediately 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 There is check and balance to these powers, as any exercise of the powers to issue an emergency intervention order will be subject to the scrutiny of the courts.

7.2.3.20 The virus is still present in Scotland. Cases in the community started to increase in August. At the same time the reproductive rate of the virus steadily rose during Autumn, and although it now appears to be dropping again, is estimated to be between 0.8 – 1. Deaths from coronavirus are now on par with the first wave, and are the highest since May.

7.2.3.21 The trend in care homes mirrors that in the community. In September the number of cases in care homes started increasing again, with 338 positive cases recorded in week 47 (16 Nov – 22 Nov). This is a significant increase from over the summer, where cases were below 10 in July and August.

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<sup>58</sup>The Care Homes Emergency Intervention Orders (Coronavirus) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/201/contents/made>

- 7.2.3.22 We are seeing outbreaks in care homes - as at 25 November, 129 (12%) of adult care homes had a current case of suspected COVID-19. Some of these care homes did not experience an outbreak in the first wave of the virus.
- 7.2.3.23 We are also approaching winter, a difficult period for care homes and the wider health and social care system in any year, which will only be exacerbated by the presence of the virus. While a vaccine is on the horizon, there is not one currently available.
- 7.2.3.24 While the virus is still present, and especially given its current resurgence, 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 quickly available in the rare circumstances that it may be required. The assurance these emergency 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 nor 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 7.2.3.15 to 7.2.3.23 above, the following factors were also taken into consideration in the review.

7.2.4.11 The legislation builds on established powers and ensures that immediate action can be taken if continuity of care is jeopardised.

7.2.4.12 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.

7.2.4.13 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.

7.2.4.14 As described above in sections 7.2.3.20 – 7.2.3.24, cases of coronavirus in Scotland are rising in both the community and care homes. While we have done everything we can to protect care homes (such as providing Infection Prevention Control guidance, additional funding and weekly staff testing), it remains a possibility that some homes will need an intervention.

7.2.4.15 Therefore, 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 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 reports are also available on the Care Inspectorate website<sup>59</sup>.

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**

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

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<sup>59</sup> 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>

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 (HSCPs), 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 The Care Inspectorate has augmented their Quality Frameworks for inspections, including care homes for adults and older people, introducing quality indicators specific to COVID-19<sup>60</sup>. This provides clarity in the reporting process during this time, where it is important to proactively identify where there may be a risk to the health and wellbeing of care home residents, and to the resilience of the service itself.
- 7.2.5.7 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.
- 7.2.5.8 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.
- 7.2.5.9 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**

- 7.2.5.10 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.

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<sup>60</sup> <https://www.careinspectorate.com/index.php/coronavirus-professionals/inspection-during-covid-19>

7.2.5.11 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 website<sup>61</sup>.

### **Factors Considered to Determine Use and Continued Necessity**

- 7.2.5.12 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.
- 7.2.5.13 National Records of Scotland (NRS) publish official statistics on deaths in Scotland, including deaths related to coronavirus in care homes. These statistics are sourced directly from death certificates and are the most accurate record of deaths.
- 7.2.5.14 Although NRS data and Care Inspectorate management information data on deaths in care homes are similar, they differ mainly due to the location of death (i.e. some care home residents who die in hospital are also included in the statistics reported to the Care Inspectorate from care home services). There are also different time lags between the date of death and the date of registration, or date of notification to the Care Inspectorate.
- 7.2.5.15 Nevertheless, the Care Inspectorate's view is that these notifications of death will be a key element in its ongoing monitoring for any resurgence of coronavirus.
- 7.2.5.16 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.
- 7.2.5.17 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.
- 7.2.5.18 The Care Inspectorate, as the independent scrutiny and improvement body responsible for the regulation and inspection of care and support services in

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<sup>61</sup>Coronavirus (COVID-19): adult care homes: additional data - <https://www.gov.scot/publications/coronavirus-covid-19-additional-data-about-adult-care-homes-in-scotland/>

Scotland, is subject to the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012.

- 7.2.5.19 The Care Inspectorate has published its Equality Outcomes, Mainstreaming Report and Action Plan<sup>62</sup>, setting out its approach to Equality Impact Assessments, obligations as corporate parents, and other duties.
- 7.2.5.20 The Scottish Government will continue to 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 specifies that the steps taken must ensure that a person's right to marry, which is protected by Article 12 of the ECHR, is not disproportionately interfered with for reasons relating to coronavirus. 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 The Scottish Ministers and the Registrar General have taken steps 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 Restrictions impacting on gatherings for the purpose of marriage ceremonies and civil partnership registrations were subject to adjustments during the reporting period at both local and national level, but it remained possible at all time for marriages and civil partnerships to take place safely both indoors and outdoors with limited numbers.
- 7.2.6.4 From 15 July, it has been possible, depending on where the ceremony or registration takes place, for up to 20 people from any number of households to attend a marriage ceremony or civil partnership registration. The limit on numbers includes the couple, the two witnesses, guests, and anyone employed by the couple. It excludes any staff employed by the venue and the registrar or celebrant.

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<sup>62</sup>Equality Outcomes, Mainstreaming Report and Action Plan - <https://www.careinspectorate.com/images/documents/5046/Equalities%20report%202019-21.pdf>

7.2.6.5 From 2 November, the Scottish Government has implemented a new strategic approach based on five levels of protection.<sup>63</sup> The Scottish Government has published ‘Coronavirus (COVID-19): local protection levels’ for information on each level.<sup>64</sup> Marriages and civil partnerships can continue to take place under the Regulations supporting the protection levels. The number of people who can attend a marriage or civil partnership depends on the protection level in the area the ceremony or registration takes place:

- At level 0, no more than 50 people should attend.
- At levels 1, 2, 3, or 4 no more than 20 people should attend.

7.2.6.6 The position on the number of people who can attend a marriage or civil partnership effectively remains the same as before 2 November in levels 1, 2, 3 and 4 of the strategic framework. Level 0 will allow couples to have more family and friends attend their marriage or civil partnership.

7.2.6.7 From 28 September, a ceremony or registration should only take place in indoor private dwellings if it is not possible for them to take place in a public place, for example, if a party to the marriage or civil partnership is seriously ill. Where a ceremony or registration is taking place in a private dwelling, the persons participating should include no more than six people, being the couple, the registrar or celebrant, the witnesses and, if required, an interpreter.

7.2.6.8 During the reporting period, additional restrictions were put in place across Scotland in relation to hospitality premises between 9 October and 2 November. These restrictions did not apply when a marriage or civil partnership and any associated reception was booked before 9 October to take place in a hospitality premise.

7.2.6.9 The Scottish Government also published the ‘Coronavirus (COVID-19): wedding ceremonies and civil partnership registrations’ guidance<sup>65</sup> on its website to help people planning to get married or form a civil partnership in Scotland and the celebrants who conduct them. Guidance has also been issued by the Registrar General on the National Records of Scotland (NRS) website.<sup>66</sup> The Registrar General has also issued guidance to Local Authority registrars, and measures have been put in place in accordance with guidance to re-open registration offices.

7.2.6.10 The Scottish Government engages with religious and belief bodies on the impact of the pandemic, including the impact on marriages and civil

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<sup>63</sup> Coronavirus (COVID-19): Scotland's Strategic Framework <https://www.gov.scot/publications/covid-19-scotlands-strategic-framework/>

<sup>64</sup> Coronavirus (COVID-19): local protection levels <https://www.gov.scot/publications/coronavirus-covid-19-protection-levels/>

<sup>65</sup> 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/>

<sup>66</sup> Getting Married or Civilly Partnered in Scotland - <https://www.nrscotland.gov.uk/registration/getting-married-in-scotland>

partnerships. The adjustment of restrictions has been of particular benefit to persons of faith. For couples for whom cohabitation before marriage is incompatible with their faith, the easing of restrictions has enabled them to marry and to begin their married life together. The easing of restrictions on access to places of worship and on the number of persons permitted to attend ceremonies has benefitted members of those religions that have a requirement or preference for ceremonies to take place indoors in a place of worship, and members of those religions that require more people to be present at a ceremony than the legal minimum of five.

- 7.2.6.11 The Scottish Government will continue to engage with key stakeholders to consider any impact of the restrictions on marriage and civil partnership on rights and equality.
- 7.2.6.12 The Scottish Government published the ‘Coronavirus (Scotland) (No.2) Act 2020: Report on Marriage and Civil partnership’<sup>67</sup> on 15 October which covered the reporting period from 1 August to 30 September. NRS were aware of 3228 marriages having been solemnised and 16 civil partnerships having been registered in that period. Further marriages and civil partnerships may have taken place which at the time of reporting had not yet been entered on the IT system due to a delay between the occurrence of the event and the return of the schedule.
- 7.2.6.13 In due course, a further report on marriages and civil partnerships will be sent by the Scottish Ministers to Parliament. This will provide information on the number of marriages solemnised and civil partnerships registered during the reporting period from 1 October to 30 November. Updated figures for the last reporting period will also be provided in this report.

### **Factors Considered to Determine Use and Continued Necessity**

- 7.2.6.14 In view of the duties paragraph 24 places on the Scottish Ministers and the Registrar General, the provision continues 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<sup>68</sup> so that fixed penalty notices under those regulations could not be given to those aged

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<sup>67</sup> Coronavirus (Scotland) (No.2) Act 2020: Report on Marriage and Civil Partnership  
<https://www.gov.scot/publications/coronavirus-scotland-no-2-act-2020-report-marriage-civil-partnership-2/>

<sup>68</sup> The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 -  
<https://www.legislation.gov.uk/ssi/2020/103/contents/made>

16 or 17. As a consequence, a police officer could only issue a Fixed Penalty Notice under these regulations where the officer reasonably believed 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 legislation.<sup>69</sup>
- 7.2.7.3. The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 have been revoked and new Regulations are now in place. Those Regulations<sup>70</sup> continue the policy that a police officer<sup>71</sup> can only issue a Fixed Penalty Notice where the officer reasonably believes that the person is aged 18 or over. As the Regulations it amended have been revoked, this provision of the Second Scottish Act has no remaining legal effect. On this basis, as these provisions under the second Scottish Act are no longer required, the most appropriate approach to expire these provisions, in the interest of maintaining the statute-book, will be considered.

### **Factors Considered to Determine Use and Continued Necessity**

- 7.2.7.4. This provision amended the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020. So long as those regulations remained in force and allowed Fixed Penalty Notices to be issued, it was appropriate to continue this provision in order that police officers could only issue a Fixed Penalty Notice under these regulations where the officer reasonably believed that the person was aged 18 or over. The policy continues that 16 or 17 year olds should not be issued with fixed penalty notices under new Regulations. The provision of the Second Scottish Act is not necessary in order to deliver that policy and therefore this provision will be considered for expiry as appropriate.

## **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:

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<sup>69</sup> COVID-19 Police Scotland Response - <https://www.scotland.police.uk/about-us/covid-19-police-scotland-response/enforcement-and-response-data/>

<sup>70</sup> The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/344/contents>

<sup>71</sup> Under the new Regulations, the power to issue a Fixed Penalty Notice is, in some circumstances, also exercisable by a person designated by a local authority (see regulations 4(11) and (12) and 7).

- an individual;
- 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 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 As of 12 November 2020 this power has been used by the Care Inspectorate in relation to 1,524 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 7.2.5.17 and 7.2.5.18 above.

7.2.8.10 Article 8 of ECHR provides for the right to respect for private and family life. This right is also engaged in relation to private correspondence. Electronic issuing of notices under the new provision hinges on a person's willingness to receive the communication in that manner, and so is clearly compatible with the ECHR. 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 that there remains a high level of demand on mental health services, 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 a feeling that services can be in a more vulnerable position given the continued presence of the virus. This has the potential for staff reductions alongside increased demands on already stretched 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. All agreed that the data and evidence of impact on services and workforce is paramount when considering whether there is a need to commence the legislation. Therefore, it is necessary to retain these provisions overall to provide additional flexibility in the event of resurgence of the virus.
- 7.3.1.7 Mental health legislation in Scotland already provides for rigorous safeguards in respect of individuals' human rights. Consideration has been given to the potential for impacting on an individual's human rights in the event that the amendments to mental health legislation ever require to be commenced. There is a balancing exercise involved in assessing the proportionality of a measure when multiple human rights are engaged; this remains the case even during a pandemic when Article 2 (the right to life) is engaged. 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 certain persons exercising functions under the Act are required to discharge the function in a manner that encourages equal opportunities and in particular the observance of the equal opportunity

requirements. This section will remain in force even if the amendments are commenced.

- 7.3.1.10 The amending provisions, if commenced, would be time limited and restricted to use only when necessary. They are not replacing existing legislation and as they are permissive rather than prescriptive then they would provide flexibility about staffing and time limits. If commenced they would only be used when adhering to the current mental health legislation is not practicable or would involve undesirable delay. Should it become necessary to commence and 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.

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

- 7.3.1.11 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.
- 7.3.1.12 Members of the Short Life Mental Health Legislation Commencement Consideration Group recently gave evidence to the Equality and Human Rights Committee and were clear that the current landscape continues to demonstrate that workload pressures are not at the stage where these temporary provisions should commence. However, the group remains strongly of the opinion that it is necessary to have these provisions available as they provide a safety net during uncertain times.
- 7.3.1.13 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)<sup>72</sup>, which came into force on 5 April 2020. Statutory guidance 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 has issued regular surveys 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 8 November 2020. Information from these surveys has been used to inform each of the two-monthly reports to the Scottish Parliament on use of powers under the Coronavirus Acts. Responses to the fourth survey covering the period 7<sup>th</sup> September - 8<sup>th</sup> November were received from all 31 Health and Social Care Partnership areas. Of these, four reported they were using the powers. The Health and Social Care Partnerships/ Local Authorities which said they were using the powers during the fourth reporting period were: Dundee, East Renfrewshire, Highland and South Lanarkshire. These are the same areas that reported using the powers during the second and third reporting periods.
- 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.
- 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

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<sup>72</sup> Coronavirus Act 2020 (Commencement No. 1) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/121/made>

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; the use of risk assessment to determine when full assessments are required; and changes to practice to ensure consistency and avoid delays or an absence of creativity in responding to needs.

### **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 previous reporting periods, most Local Authorities have determined that it is not operationally necessary for them to use these powers at this stage. 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.

7.3.2.14 In relation to children’s services, child protection activity has been monitored on a weekly basis since early in lockdown. There were peaks in child protection registrations as lockdown eased, but the number has declined fairly steadily since with corresponding de-registrations increasing. These spikes were widely expected by senior professionals as contact with vulnerable children increased after lockdown. Police Scotland child concern reports also appear to have returned to levels similar to last year. Recently though there have been some increases in the number of child protection registrations so it would appear too soon to assume that the general trend will be downwards.

7.3.2.15 Social Work Scotland and the Office of the Chief Social Work Adviser believe there is a potential for demand in children’s services to increase over the winter and that any delays in response times could leave children unprotected or families without prompt support. We will continue to monitor the data on a

weekly basis and liaise regularly with Chief Social Work Officers on the need to retain the powers in respect of children's services.

7.3.2.16 Scottish Ministers have therefore brought forward The Coronavirus Act 2020 (Suspension: Adult Social Care) (Scotland) Regulations 2020 under section 88 of the UK Act which partially suspends section 16 in respect of adult social care and adult carers, while leaving it in force in respect of children. This will retain the ability for the powers to be used for children's services. Section 16 could be brought back into effect for adult social care and adult carers by regulations to revive the operation of a provision under section 88(3) of the UK Act, should the response to the virus require this. These regulations came into force on 30<sup>th</sup> November. An Equality Impact Assessment<sup>73</sup> was completed for the regulations and revised guidance has been issued.

### **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 are 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 average processing time for PVG disclosures in connection with recruitment for coronavirus work has been under one week. 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

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<sup>73</sup> Equality impact assessment: [The Coronavirus Act 2020 \(Suspension: Adult Social Care\) \(Scotland\) Regulations 2020 \(legislation.gov.uk\)](#). Revised guidance: [Coronavirus \(COVID 19\): changes to social care assessments - statutory guidance for local authorities on sections 16 and 17 of the Coronavirus Act 2020 as updated on 6 Nov - gov.scot \(www.gov.scot\)](#)

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. Ministers have powers in respect of both types of direction 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 2 of schedule 17 have not been used in this reporting period. Scottish Ministers have previously exercised their powers conferred by section 38(2) and paragraph 11(1) of schedule 17 of the UK Act, to give Educational Continuity Directions<sup>74</sup> to education authorities. The first such direction was given with effect from 21 May 2020 and was reviewed and renewed on a 21 day cycle. The most recent direction was given with effect from 10 August 2020 and expired on 30 August 2020.

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<sup>74</sup> Coronavirus Act 2020: educational continuity direction - <https://www.gov.scot/publications/coronavirus-act-2020-educational-continuity-direction/>

As required by the legislation, Scottish Ministers 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.

### **Factors Considered to Determine Use and Continued Necessity**

7.3.4.4 The most recent continuity direction expired on 30 August 2020. It was not considered necessary or proportionate to give a further direction. However, due to the continuing uncertainties of the development of this pandemic, 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 resurgence of the virus which may necessitate closures of educational establishments. The situation will be kept under review in line with the key discussions had by the Education Recovery Group, however, at this stage it is not anticipated that further directions will be given.

7.3.4.5 The Education Recovery Group provided the broad based overview of the effect of the direction. An initial impact assessment of the Strategic Framework was published on 21 May 2020<sup>75</sup>, and full impact assessments in relation to protected characteristics, children's rights and wellbeing, the Fairer Scotland Duty and island communities were subsequently 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 2020<sup>76</sup> alongside the updated guidance for reopening schools which reflected the Government's updated position on being able to open schools full-time from August. This guidance has now been updated to reflect that we are progressing through the autumn term, and has been replaced by the 'Reducing risks in schools guidance', which is aligned with the Strategic Framework. Full impact assessments are being developed to support these updates, and will continue to be updated alongside any future iterations of the guidance.

### **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

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<sup>75</sup> 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/>

<sup>76</sup> 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/>

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 and schedule 19 commenced on Royal Assent and 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 Guidance<sup>77</sup> is also published.
- **26 March 2020:** The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (SSI 2020/103)<sup>78</sup> are made and come into force.
- **27 March 2020:** Physical Distancing Guidance Staying at Home and Away from Others<sup>79</sup> is published.
- **1 April 2020:** The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment Regulations 2020 (SSI 2020/106)<sup>80</sup> 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.
- **21 April 2020:** The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 2) Regulations 2020 (SSI 2020/126)<sup>81</sup> 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

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<sup>77</sup> Working Safely During Coronavirus Guidance - <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19>

<sup>78</sup> The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/103/contents/made>

<sup>79</sup> 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/>

<sup>80</sup> The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment Regulations 2020 <https://www.legislation.gov.uk/ssi/2020/106/contents/made>

<sup>81</sup> The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 2) Regulations 2020 <http://www.legislation.gov.uk/ssi/2020/126/made>

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 Framework<sup>82</sup>. 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)<sup>83</sup> 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)<sup>84</sup> 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 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.

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<sup>82</sup> Coronavirus (COVID-19): framework for decision making -

<https://www.gov.scot/publications/coronavirus-covid-19-framework-decision-making/>

<sup>83</sup> Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 3) Regulations 2020 - <http://www.legislation.gov.uk/ssi/2020/164/contents/made>

<sup>84</sup> The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 4) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/182/contents>

- 26 June 2020:** The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 5) Regulations 2020 (SSI 2020/190)<sup>85</sup> 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, which 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)<sup>86</sup> 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)<sup>87</sup> 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)<sup>88</sup> are made. They provide that businesses may serve food and drink for

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<sup>85</sup> The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 5) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/190/contents>

<sup>86</sup> The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 6) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/199/contents>

<sup>87</sup> The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 7) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/210/contents>

<sup>88</sup> The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 8) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/211/contents>

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)<sup>89</sup> 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 August 2020:** The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendments (No.10) Regulations 2020 (SSI 2020/236)<sup>90</sup> are made. They introduced changes to face coverings, to extend the settings in which they are required, to exclude face shields from the definition of a face covering, and to require those responsible for certain premises to take measures to minimise risk of exposure to coronavirus.
- **13 August 2020:** The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendments (No.11) Regulations 2020 (SSI 2020/241)<sup>91</sup> are made. They amend the principal regulations with the effect that a person responsible for hospitality premises is required to collect information about visitors to those premises.
- **21 August 2020:** The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendments (No.12) Regulations 2020 (SSI 2020/251)<sup>92</sup> are made. They set out that gathering for the purposes of an organised outdoor activity is exempt from the public gathering restrictions. The regulations allow preparatory work, including rehearsals, to recommence in theatres and concert halls ahead of their full reopening later in the Route Map and revoke the requirement for bingo halls, amusement arcades, casinos, bowling alleys, pool/snooker halls and funfairs to close. The regulations also require face coverings to be worn

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<sup>89</sup> The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 9) Regulations 2020 -<https://www.legislation.gov.uk/ssi/2020/232/contents>

<sup>90</sup> The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 10) Regulations 2020 -<https://www.legislation.gov.uk/ssi/2020/236/contents>

<sup>91</sup> The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 11) Regulations 2020 -<https://www.legislation.gov.uk/ssi/2020/241/contents>

<sup>92</sup> The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 12) Regulations 2020 -<https://www.legislation.gov.uk/ssi/2020/251/contents>

in bingo halls, amusement arcades, casinos, bowling alleys and indoor funfairs.

- **27 August 2020:** The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendments (No.13) Regulations 2020 (SSI 2020/261)<sup>93</sup> are made. They provide the police with powers to take action in cases of house parties of 16 or more people from more than one household. They also amend the list of exceptions to the restriction on gatherings in public place to allow a gathering to take place where it is for the purpose of organised exercise and certain other organised activities. The regulations permit indoor fitness studios, gyms, swimming pools or other indoor leisure centres, including skating rinks to reopen. They also require the wearing of face coverings in the sport and exercise related venues which are now reopening and sets out that a face covering does not need to be worn for the purpose of exercise.
- **28 August 2020:** The Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020 (SSI 2020/262)<sup>94</sup> come into force. These regulations make provision for a Local Authority to give directions relating to specified premises, events and public outdoor places in its area. A direction may only be given if the Local Authority considers that the necessity and proportionality conditions set out in the regulations are met. The Local Authority must review the direction at least once every seven days and it must be revoked, or revoked and replaced when it is determined on review that the requirements of necessity and proportionality are no longer met.
- **11 September 2020:** The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 are reviewed. As the measures are still deemed necessary, but the impending expiry date is 26 September 2020, the regulations are revoked and replaced with a new instrument. The Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 (SSI 2020/279)<sup>95</sup> are made. They come into force on 14 September 2020. They include an expiry provision that provides that the regulations remain in place until 31 March 2021. They also adjust the restriction on parties in private dwellings to ensure student accommodation is appropriately covered by the existing restrictions, introduce new restrictions on public and private gatherings, setting out that gatherings made up of more than six people from more than two households are restricted, with the exception of some limited circumstances. The regulations adjust the previous provisions relating to the face coverings to ensure that customers and staff are required to wear face coverings, in certain circumstances, when within a hospitality venue and ensure marriage and civil partnership receptions and funeral

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<sup>93</sup> The Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 13) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/261/contents>

<sup>94</sup> The Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/262/made>

<sup>95</sup> The Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020 - <https://www.legislation.gov.uk/ssi/2020/279/contents>

wakes are no longer restricted by the gathering limit (six people from two households) so can take place with slightly larger numbers.

- **24 September 2020:** The regulations are reviewed. The measures are still deemed necessary and some further restrictions are required. The Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Amendment Regulations 2020 (SSI 2020/300) are made. They come into force on 25 September. They require certain hospitality premises to close between 10pm and 5am and to only sell food or drink for consumption on those premises if customers consume the food and drink while sitting at a table. They also adjust the restrictions on gatherings.
- **9 October 2020:** The Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020 (SSI 2020/318) are brought forward to introduce additional temporary restrictions, both outside the central belt and specific to the central belt. These regulations suspend the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations. They come into force on the 9 and 10 October. Outside the central belt, indoor hospitality venues must close between 6 pm and 6 am. Licensed premises are not permitted to sell alcohol for consumption inside the premises. The regulations require retail premises to return to 2 metre physical distancing. In the central belt, licensed hospitality venues, other than cafes, must close their premises to the public for the duration that the regulations are in force. The regulations restrict indoor group exercise classes, for those aged 18 and over, and also restricts contact sport for this age group, unless it is for the purpose of professional sport. The regulations restrict outdoor live events from taking place in this geographical area and requires the closure of snooker/pool halls, indoor bowling, casinos and bingo halls.
- **15 October 2020:** The Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) Amendment (Scotland) Regulations 2020 (SSI 2020/325) are made. These came into force on 16 and 19 October. These regulations adjust the requirement to wear a face covering to exempt a couple from wearing a face covering during their marriage or civil partnership ceremony. These regulations also require face coverings to be worn, unless an exemption applies, in workplace canteens and when in communal areas of workplaces indoors.
- **22 October 2020:** The Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) Amendment (No.2) (Scotland) Regulations 2020 (SSI 2020/329) are made. They came into force on 24 October. These regulations extend the expiry date of the existing additional temporary measures. The Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020 had been due to expire on 26 October 2020 but these amending regulations extend the restrictions to

2 November 2020 to allow a levels-based approach to be developed and introduced.

- **30 October 2020:** A new levels-based approach is put into regulations to implement the Strategic Framework, coming into force from 2 November 2020. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (SSI 2020/344) set the restrictions and requirements for five different levels and set out which levels apply to different geographical areas across Scotland allowing targeted action to be taken. These regulations also revoke the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020, which had been suspended since the coming into force of the first set of Additional Temporary Measures regulations.
- **1 November 2020:** Amending regulations (SSI 2020/347) are brought forward to correct an error in the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020, by removing the requirement for amusement arcades to close at Level 2.
- **12 November 2020:** The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 2) Regulations 2020 (SSI 2020/374) are brought forward to modify some of the restrictions and requirements for the different levels and set out changes to the level that applies to 3 areas of Scotland, all other areas remain in the same level.
- **20 November 2020:** The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 3) Regulations 2020 (SSI 2020/389) are brought forward to change the level that applies to 11 local authority areas of Scotland, modify some of the restrictions and requirements for different levels and to create travel restrictions in relation to Level 3 and 4 areas and also in relation to travel between Scotland and parts of the common travel area.
- **23 November 2020:** The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 4) Regulations 2020 (SSI 2020/392) are brought forward to change the level that applies to 1 local authority area of Scotland, all others remain at the same level.
- **26 November 2020:** The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 5) Regulations 2020 (SSI 2020/400) are brought forward to permit students to travel home from their term-time address and join one other household, and also provide an exemption to the travel restrictions for all college and university students travelling to or from any local authority areas in Scotland at the end of term, including those travelling to or from elsewhere in the UK.

- 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, was published at the start of phases two and three. New guidance was published to accompany the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020. The Scottish Government published supporting evidence that has informed the decisions for moving through the Route Map. The most recent supporting evidence for decisions about timings of changes within phase three was published on 20 November 2020<sup>96</sup>.
- 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 activity<sup>97</sup>. 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 Crime<sup>98</sup> and Criminal Proceedings<sup>99</sup> 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 Notices issued. Further updates on developments with these Official Statistics can be received by signing up to the SCOTSTAT network<sup>100</sup>.
- 7.3.5.6 Information is now available on charges reported to COPFS under the Health Protection (Coronavirus)(Restrictions)(Scotland) Regulations 2020. Most charges were related to regulation 8(1), for failure to comply with Coronavirus Regulations.
- 7.3.5.7 Table Three below provides additional information on the number of charges reported up to 31 October 2020 and the initial decision on how these charges will proceed.

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<sup>96</sup>Coronavirus (COVID-19): Route Map - supporting evidence for the 15 October review  
<https://www.gov.scot/publications/covid-19-framework-decision-making-scotlands-route-map-through-out-crisis-supporting-evidence-15-october-review/pages/1/>

<sup>97</sup> 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/>

<sup>98</sup> Recorded Crime in Scotland, 2018-19 National Statistics -  
<https://www.gov.scot/publications/recorded-crime-scotland-2018-19/>

<sup>99</sup> Criminal Proceedings in Scotland, 2018-19 National Statistics -  
<https://www.gov.scot/publications/criminal-proceedings-scotland-2018-19/>

<sup>100</sup> SCOTSTAT network for users and providers of Scottish Official Statistics -  
<https://www2.gov.scot/Topics/Statistics/scotstat>

**Table Three: Action taken as a result of charges reported to COPFS under the Health Protection (Coronavirus)(Restrictions)(Scotland) Regulations 2020 – up to 31 October 2020**

Action taken	Number of charges reported	% of total <sup>101</sup>
<b>Solemn</b>	<b>56</b>	<b>8%</b>
<b>Summary</b>	<b>247</b>	<b>37%</b>
Fiscal Fine	125	
Diversion	3	
Reporter	25	
Warning	14	
<b>Direct Measure Total</b>	<b>167</b>	<b>25%</b>
<b>No Action/Not Separately Actioned Total</b>	<b>120</b>	<b>18%</b>
<b>No Decision Total</b>	<b>75</b>	<b>11%</b>
<b>Grand Total</b>	<b>665<sup>102</sup></b>	<b>100%</b>

Source: COPFS

7.3.5.8 The table above covers the full period of the regulations being in force. A monthly breakdown of charges reported by date of offence is provided below.

**Table Four: Charges reported to COPFS under the Health Protection (Coronavirus)(Restrictions)(Scotland) Regulations 2020 by date of offence – up to 31 October 2020**

Month	March	April	May	June	July	Aug	Sept	Oct	Total
<b>Total charges reported<sup>103</sup></b>	33	333	194	36	13	13	33	10	665

Source: COPFS

7.3.5.9 This demonstrates that there has been a decline in charges under the regulations, with only 10 of the 665 charges reported since the regulations were introduced relating to offences committed in October (however, the figure for October may increase slightly as some offences committed in October may be reported to COPFS in November or later).

<sup>101</sup> Shown as rounded percentage figure. Percentage difference in total (1%) is comprised unrounded figures.

<sup>102</sup> Please note - the data includes a small number (16 in total) of quarantine related charges under the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020.

<sup>103</sup> By date of offence

- 7.3.5.10 A Local Authority can also use enforcement powers in relation to the parts of the regulations that relate to restrictions on businesses.
- 7.3.5.11 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), and for later iterations of the health protection regulations made under schedule 19 of the UK Act.
- 7.3.5.12 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**

- 7.3.5.13 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.
- 7.3.5.14 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.
- 7.3.5.15 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.
- 7.3.5.16 In practice, this means that the measures are formally reviewed on a weekly basis to determine whether they continue to be required or modified on public health grounds and against the terms of the Strategic Framework. The outcome of each review is communicated to the Scottish Parliament. In between these formal reviews, the individual measures are kept under continuous review and changes are assessed 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. Changes arising from the weekly review are set out to the Scottish

Parliament in plenary and then considered by the Parliament's COVID-19 Committee.

- 7.3.5.17 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.
- 7.3.5.18 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. All impact assessments can be found on [www.legislation.gov.uk](http://www.legislation.gov.uk) under the appropriate instrument.

### 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 health<sup>104</sup> was made on 25 March 2020 under schedule 21, and a further clarificatory declaration<sup>105</sup> 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 in localised areas introduces a risk of potential, localised outbreaks of coronavirus. The Test and Protect

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<sup>104</sup>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/>

<sup>105</sup> 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/>

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, where appropriate, to use the powers under schedule 21 for their own and others' health and wellbeing.

- 7.3.6.4 In respect of the provisions in schedule 21, for example relating to isolation and medical screening and assessment, the requirements of ECHR were carefully considered when the Act was developed. When powers under schedule 21 are exercised, they must be exercised in a manner which strikes an appropriate balance between individuals' rights and the public health interest. To ensure this, a number of safeguards are built into the provisions, including the pre-requisite for the use of powers being a Ministerial declaration of a "serious and imminent risk to public health"; the requirement for the person exercising powers under the schedule to have reasonable grounds to believe that the person they are dealing with is potentially infectious; and appeal rights for those subject to 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 health<sup>106</sup> 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 declaration<sup>107</sup> made on 30 March 2020).
- 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. Provision has also been made through regulations<sup>108</sup> made

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<sup>106</sup>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/>

<sup>107</sup> 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/>

<sup>108</sup> The Health Protection (Coronavirus, Restrictions)(Directions By Local Authorities)(Scotland) Regulations 2020: <https://www.legislation.gov.uk/ssi/2020/262/contents/made>

under the section 49, schedule 19 powers, to allow Local Authorities to give directions relating to specified premises, events and public outdoor places in their area.

### **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. The powers may be necessary to allow Scottish Ministers to take more targeted action in local areas to close specific premises where there is a serious outbreak (where premises of that type are not closed by the schedule 19 regulations), or where Ministers consider action needs to be taken quickly and premises have not yet been closed by a Local Authority or where Local Authority powers are not appropriate - for example, where there is an outbreak spanning a number of Local Authorities but not all of Scotland.
- 7.3.7.6 When powers are exercised under schedule 22, they must be exercised in a manner which strikes an appropriate balance between individuals' rights and the public health interest. Safeguards are built into the provisions, for example, the pre-requisite for the use of powers being a Ministerial declaration of a "serious and imminent risk to public health". Decisions on issuing directions under schedule 22 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 Five below.

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

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<a href="#">The National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2020</a>  SSI 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.	30/01/2020	Open-ended	<b>In force</b>  No change to status since last reporting period
<a href="#">The Public Health etc. (Scotland) Act 2008 (Notifiable Disease and Notifiable Organisms)</a>	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.	22/02/2020	Open-ended	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<a href="#">Amendment Regulations 2020</a>  SSI 2020/051						
<a href="#">The Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Regulations 2020</a>  SSI 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 01/04/2020, and makes consequential amendments to other regulations that provide a relief from liability to pay rates.	01/04/2020	31/03/2021	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<a href="#">The Council Tax Reduction (Scotland) (Amendment) (No.3) (Coronavirus) Regulations 2020</a>  SSI 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.	06/04/2020	04/04/2021	<b>In force</b>  No change to status since last reporting period
<a href="#">The Carer's Allowance (Coronavirus) (Breaks in Care)(Scotland) Regulations 2020</a>  SSI 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 caring so that breaks due to a carer or cared-for person being infected with or self-isolating due to COVID-19 do not affect carers' entitlement to Carer's Allowance.	03/04/2020	Initially 8 months from 03/04/2020  The application of regulation 2, which provides for the relaxation of the rules on breaks	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
					in care, will be will be extended to 12/05/2021 at 2359 by regulations SSI 2020/350 – see related table entry.	
<a href="#">The Single Use Carrier Bag Charge (Scotland) Amendment Regulations 2020</a> SSI 2020/118	Sections 88 and 96(2) of the Climate Change (Scotland) Act 2009	Affirmative	Waives the carrier bag fee in certain circumstances, such as bags being used to deliver groceries from a supermarket, for collections and for takeaways.	02/04/2020	Has effect until 00:01 on 03/10/2020	<b>Changed since last reporting period.</b>  Amendments made by 2018/118 are expired
<a href="#">The Prisoner and Young Offenders Institutions (Scotland)</a>	Section 39 of the Prisons (Scotland) Act 1989	Negative	The amendments provide Governors with flexibility in regards to	07/04/2020	31/03/2021	<b>Partially in force</b>

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<a href="#">Amendment Rules 2020</a> SSI 2020/122			compliance with timescales and the provision of services detailed in Prison Rules.			SSI 2020/264 amended some of the provision made by this SSI to extend the period of time for which these amendments have effect to 31/03/2021
<a href="#">The Electricity Works (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020</a> SSI 2020/123	Section 2(2) of the European Communities Act 1972, sections 36(8), 36C(2), 60(2) and (3) and paragraph 1(3) of schedule 8 of the Electricity Act 1989	Negative	Suspends requirements for applicants to provide access to certain information at a physical location.	24/04/2020	Ending on the date on which Part 1 of the first Scottish Act expires	<b>In force</b> No change to status since last reporting period
<a href="#">The Town and Country Planning (Miscellaneous Temporary</a>	Section 2(2) of the European Communities Act 1972,	Negative	Suspends requirements for certain public events and	24/04/2020	Ending on the date on which Part 1 of the	<b>In force</b> No change to status since

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<a href="#">Modifications)(Coronavirus) (Scotland) Regulations 2020</a> SSI 2020/124	sections 35B(5), 40, 43A(10) and (11) and 275 of the Town and Country Planning (Scotland) Act 199		meetings for applicants to provide access to certain information at a physical location.		first Scottish Act expires	last reporting period
<a href="#">The Education (Misc. Amendments)(Coronavirus) (Scotland) Regulations 2020</a> SSI 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 Learning) (Scotland) Act 2004	Negative	Extends timeframes for admissions related appeals and gives greater flexibility in how appeals can be conducted.	23/04/2020	Open-ended	<b>In force</b>  No change to status since last reporting period
<a href="#">The Town and Country Planning (General Permitted Development)</a>	sections 30, 31 and 275 of the Town and Country	Negative	Allows Local Authorities to carry out development	24/04/2020	31/12/2020	<b>In force</b>  No change to status since

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<a href="#">(Scotland) (Coronavirus) Amendment Order 2020</a> SSI 2020/129	Planning (Scotland) Act 1997		for emergency purposes.			last reporting period
<a href="#">The Children and Young People (Scotland) Act 2014 (Modification) (No.2) Revocation Order 2020</a> SSI 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.	30/04/2020	Open-ended	<b>In force</b>  No change to status since last reporting period
<a href="#">The Homeless Persons (Unsuitable Accommodation)(Scotland) Amendment Order 2020</a> SSI 2020/139	Section 29(3) and (4) of the Housing (Scotland) Act 1987	Negative	Extends the 2014 Unsuitable Accommodation Order to all homeless households.	05/05/2020	Open-ended except for Article 3 which expired on 30/09/2020	<b>In force - with exception of Article 3 which expired 30/09/20</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<a href="#">The Education (Deemed Decisions) (Coronavirus) (Scotland) Amendment Regulations 2020</a>  SSI 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.	15/05/2020	Open-ended	<b>In force</b>  No change to status since last reporting period
<a href="#">The Adults with Incapacity (Ethics Committee)(Coronavirus)(Scotland) Amendment Regulations 2020</a>  SSI 2020/151	Section 51(6) of the Adults with Incapacity (Scotland) Act 2000	Negative	To improve capacity within, and allow some flexibilities in, working practice of the committee as a result of urgency of COVID-19 research and the	21/05/2020	Open-ended	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			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 required to absent themselves due to clinical duties.			
<a href="#">The Marine Works &amp; Marine Licensing (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020</a>  SSI 2020/157	Section 2(2) of the European Communities Act 1972, sections 23(3)(d), (4) and (5), 24(2) and 165(1) of the Marine (Scotland) Act 2010	Negative	Replaces requirements for certain public consultation events with online events and suspends requirements for applicants to provide access to certain information	21/05/2020	Ending on the date on which Part 1 of the first Scottish Act expires	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			at a physical location.			
<a href="#">The Police Act 1997 and Protection of Vulnerable Groups (Scotland) Act 2007 (Fees) (Coronavirus) Regulations 2020</a>  SSI 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 (Scotland) Act 2007	Negative	Qualifying sectors recruiting staff solely to respond to pandemic do not pay usual fee for a disclosure check.	26/06/2020	25/12/2020	<b>In force</b>  No change to status since last reporting period
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020</a>  SSI 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	08/06/2020	12 months	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			arrival, subject to a limited number of sectoral exemptions.			
<a href="#">The Health Protection (Coronavirus) (Public Health Information for Travellers to Scotland) (Scotland) Regulations 2020</a>  SSI 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 Scotland including the need to provide contact information and to self-isolate.	08/06/2020	12 months	<b>In force</b>  No change to status since last reporting period
<a href="#">The Health Protection (Coronavirus)(International Travel) (Scotland) Amendment Regulations 2020</a>  SSI 2020/171	Section 94(1)(b)(i) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	Amendments on penalty provisions.	08/06/2020	12 months	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<a href="#">The Land Reform (Scotland) Act 2016 (Supplementary Provision) (Coronavirus) Regulations 2020</a> SSI 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.	12/06/2020	Six month extension - expires 12/12/2020	<b>In force</b> No change to status since last reporting period
<a href="#">The Prisons and Young Offenders Institutions (Coronavirus) (Scotland) Amendment Rules 2020</a> SSI 2020/175	Section 39 of the Prisons (Scotland) Act 1989	Negative	The Amendment Rules provide for the introduction of virtual visits, authorised personal communication devices and in-cell telephony in Scottish prisons.	15/06/2020	Open-ended	<b>In force</b> No change to status since last reporting period
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.2) Regulations 2020</a> SSI 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.	20/06/2020	12 months from 08/06/2020	<b>In force</b> No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<a href="#">The Local Government Finance (Coronavirus) (Scotland) Amendment Order 2020</a>  SSI 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 each Local Authority in Scotland, in respect of the financial year 2020-2021.	25/06/2020	31/03/2021	<b>In force</b>  No change to status since last reporting period
<a href="#">The Legal Aid and Advice and Assistance (Miscellaneous Amendments) (Coronavirus) (Scotland) Regulations 2020</a>  SSI 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	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	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	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			guidance, and support access to justice for appeals against special restrictions or requirement.		Part 9 of schedule 4 of the Coronavirus (Scotland) Act 2020 expires in accordance with section 12 of that Act	
<a href="#">The Registration of Independent Schools (Prescribed Persons)(Coronavirus) (Scotland) Amendment Regulations 2020</a>  SSI 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 independent schools to register	04/07/2020	Open-ended	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			with the General Teaching Council for Scotland.			
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.3) Regulations 2020</a>  SSI 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.	10/07/2020	12 months from 08/06/2020	<b>In force</b>  No change to status since last reporting period
<a href="#">The Land and Buildings Transaction Tax (Tax Rates and Tax Bands) (Scotland) Amendment (No.2) (Coronavirus) Order 2020</a>  SSI 2020/215	Section 24(1) of the Land and Buildings Transaction Tax (Scotland) Act 2013	Made Affirmative	Temporarily raises the nil rate band for Land and Buildings Transaction Tax (LBTT) for residential property transactions from £145,000 to £250,000. The revised rates will apply to all relevant transactions where the effective date	15/07/2020	The end of the day of 31/03/2021	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			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.			
<a href="#">Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 4) Regulations 2020</a>  SSI 2020/221	Section 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Added Spain to the list of exempt countries in the international travel regulations. Travellers from these countries and territories are exempt from the requirement to self-isolate for 14 days on arrival in Scotland.	23/07/2020	12 months from 08/06/2020	<b>In force</b>  Superseded by SSI 2020/244
<a href="#">The Health Protection (Coronavirus) (International Travel)</a>	Section 94 of the Public Health etc.	Made Affirmative	Amended the Health Protection (Coronavirus)	26/07/2020	12 months from 08/06/2020	<b>In force</b>

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<a href="#">(Scotland) Amendment (No. 5) Regulations 2020</a>  SSI 2020/224	(Scotland) Act 2008		(International Travel) (Scotland) Regulations 2020 to remove Spain from the list of exemptions from the requirement to self-isolate for 14 days on arrival in Scotland.			Superseded by SSI 2020/330 in respect of the removal of The Canary Islands
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 6) Regulations 2020</a>  SSI 2020/229	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	To amend the principal regulations (SSI 2020/169) to add Estonia, Latvia, Slovenia, Slovakia and St Vincent and the Grenadines to the list of exempt countries and territories in the international travel regulations. Travellers from these countries and territories are exempt from the	28/07/2020	12 months from 08/06/2020	<b>In force</b>  Superseded by SSI 2020/288 in respect of Slovenia and by SSI 2020/301 in respect of Slovakia

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			requirement to self-isolate for 14 days on arrival in Scotland.			
<a href="#">The Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Amendment Regulations 2020</a>  SSI 2020/230	Section 153 of the Local Government etc. (Scotland) Act 1994	Negative	Expanded the use categories of properties that qualify for the 100% rates relief introduced under the Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Regulations 2020 in the financial year beginning on 01/04/2020 (retrospectively, the power to do so for the financial year 2020-21 in that financial year having been introduced by schedule 4 of the Coronavirus	05/09/2020	31/03/2021	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			(Scotland) (No.2) Act 2020. Amends the Non-Domestic (Coronavirus Reliefs) (Scotland) Regulations 2020 by introducing an additional relief in relation to Non-Domestic Rates in the financial year beginning on 01/04/2020, and makes consequential amendments to other regulations that provide a relief from liability to pay rates.			
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.7) Regulations 2020</a>	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	31/07/2020	12 months from 08/06/2020	<b>In force</b> No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
SSI 2020/233			Luxembourg from the list of exempt countries from quarantine requirements.			
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 8) Regulations 2020</a>  SSI 2020/235	Section 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	To amend the principal regulations (SSI 2020/169) to remove Andorra, Belgium and the Bahamas from, and add Brunei and Malaysia to, the list of exempt countries and territories in the international travel regulations. Travellers from these countries and territories are exempt from the requirement to self-isolate for 14 days on arrival in Scotland.	Removals came into force 08/08/2020  Additions came into force 11/08/2020	12 months from 08/06/2020	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<a href="#">The Representation of the People (Absent Voting at Local Government Elections) (Amendment) (Coronavirus) (Scotland) Regulations 2020</a>  SSI 2020/240	Section 33 of the Local Electoral Administration and Registration Services (Scotland) Act 2006	Negative	Allows individuals who may be following guidance or instructed to self-isolate due to COVID-19 to be eligible for an emergency proxy vote in local government election.	23/09/2020	2 years from commencement with duty to review after one year (September 2021)	<b>In force</b>  No change to status since last reporting period
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.9) Regulations 2020</a>  SSI 2020/242	Section 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	To amend the principal regulations (SSI 2020/169) to remove France, Monaco, the Netherlands, Malta, Aruba, the Turks and Caicos Islands from the list of exempt countries and territories. Travellers from these countries	15/08/2020	12 months from 08/06/2020	<b>In force</b>  Superseded by SSI 2020/378 in respect of the removal of Turks and Caicos Islands

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			and territories are exempt from the requirement to self-isolate for 14 days on arrival in Scotland.			
<a href="#">The Direct Payments to Farmers (Controls) (Scotland) Regulations 2020</a>  SSI 2020/244	Article 62 of Regulation 1306/2013	Negative	To reduce the control rate for inspections on direct payments for the 2020 claim year.	30/09/2020	Scheme Year 2020 (1 January to 31 December)	<b>In force</b>  No change to status since last reporting period
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.10) Regulations 2020</a>  SSI 2020/252	Section 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	To amend the principal regulations (SSI 2020/169) to remove Austria, Croatia, Switzerland and Trinidad & Tobago. Added Portugal to the list of exempt countries and territories in the International Travel regulations.	22/08/2020	12 months from 08/06/2020	<b>In force</b>  Superseded by SSI 2020/274 in respect of the addition of Portugal

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			<p>Travellers from these countries and territories are exempt from the requirement to self-isolate for 14 days on arrival in Scotland. Amends schedule 2 exemptions for oil and gas workers, Crown servants, government contractors and officials of a foreign government bringing them into line with the provisions in England and Northern Ireland. Amends schedule 3 Specified Competitions adding the Dubai Duty Free Irish</p>			

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			Open Golf Tournament (European Tour) and The Northern Ireland Golf Open Tournament (European Challenge Tour supported by the R&A).			
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 11) Regulations 2020</a>  SSI 2020/263	Section 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	To amend the principal regulations (SSI 2020/169) to remove the Czech Republic and Jamaica from, and add Cuba to, the list of exempt countries and territories in the International Travel Regulations. Travellers from these countries and territories are	29/08/2020	12 months from 08/06/2020	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			exempt from the requirement to self-isolate for 14 days on arrival in Scotland.			
<a href="#">The Prisons and Young Offenders Institutions (Coronavirus) (Scotland) Amendment (No 2) Rules 2020</a>  SSI 2020/264	Section 39 of the Prisons (Scotland) Act 1989	Negative	To continue amendments made to prison rules in light of coronavirus beyond 30 September 2020.  This further amended the Prison Rules so that the changes made by SSI 2020/122 have effect until 31 March 2021.	29/09/2020	31/03/2021	<b>In force</b>  No change to status since last reporting period
<a href="#">The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment</a>	Section 29(3) and (4) Housing (Scotland) Act 1987	Negative	To temporarily modify the Homeless Persons (Unsuitable Accommodation) (Scotland) Order	30/09/2020	31/01/2021	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<a href="#">(Coronavirus) Order 2020</a> SSI 2020/268			2014 to allow temporary accommodation for reasons related to coronavirus.			
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 12) Regulations 2020</a> SSI 2020/271	Section 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	To amend the principal regulations (SSI 2020/169) to remove Greece from the list of exempt countries and territories in the International Travel regulations. Travellers from these countries and territories are exempt from the requirement to self-isolate for 14 days on arrival in Scotland.	03/09/2020	12 months from 08/06/2020	<b>In force</b> Superseded by SSI 2020/326 and SSI 2020/330 in respect of Greece and Mykonos
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland)</a>	Section 94(1)(b)(i) and 122(2)(b) of the Public Health	Made affirmative	To amend the principal regulations (SSI 2020/169) to	05/09/2020	12 months from 08/06/2020	<b>In force</b> No change to status since

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<a href="#">Amendment (No. 13) Regulations 2020</a>  SSI 2020/274	etc. (Scotland) Act 2008		remove the French Polynesia and Portugal from the list of exempt countries and territories in the International Travel regulations. Travellers from these countries and territories are exempt from the requirement to self-isolate for 14 days on arrival in Scotland. Amends schedule 2 by amending the exemption for inspectors and surveyors of ships; and amends schedule 3 by substituting it with a new schedule 3A, which updates			last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			the list of specified competitions.			
<a href="#">The Valuation Timetable (Disposal of Appeals and Complaints) (Coronavirus) (Scotland) Amendment Order 2020</a>  SSI 2020/277	Sections 13(1) and 42(1) of the Valuation and Rating (Scotland) Act 1956	Laid no procedure	To make the last date for the disposal by a valuation appeal committee of a valuation roll appeal, or complaint lodged with it, 31 December in the fourth year following the year of revaluation, instead of 31 December in the third year following a year of revaluation, unless another rule provides for a later disposal date.	29/09/2020	Open-ended	<b>In force</b>  No change to status since last reporting period
<a href="#">The Health Protection (Coronavirus) (International Travel)</a>	Section 94(1)(b)(i) and 122(2)(b) of the	Made Affirmative	To amend the principal regulations (SSI	12/09/2020	12 months from 08/06/2020	<b>In force</b>

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<p><a href="#">(Scotland) Amendment (No. 14) Regulations 2020</a></p> <p>SSI 2020/280</p>	<p>Public Health etc. (Scotland) Act 2008</p>		<p>2020/169) to remove Hungry and Reunion and add Sweden to the list of exempt countries and territories in the International Travel Regulations. Travellers from the countries and territories on the exempt list are exempt from the requirement to self-isolate for 14 days on arrival in Scotland. Also enabled a regional approach to be taken to removals from and additions to the list of exempt countries and territories in schedule A1</p>			<p>Superseded by SSI 2020/354 in respect of the addition of Sweden</p>

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			replaced a reference to paragraphs 37 and 38 of schedule 1 of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020; and a minor amendment to the definition of "specified competition" in schedule 2.			
<a href="#">The Corporate Insolvency and Governance Act 2020 (Meetings of Scottish Charitable Incorporated Organisations) (Coronavirus) Regulations 2020</a> SSI 2020/284	Corporate Insolvency and Governance Act 2020, schedule 14, paragraph 2(2)(b)	Made affirmative	To extend the "relevant period" during which Scottish Charitable Incorporated Organisations (SCIOs) can hold meetings (such as AGMs) remotely to 30/12/2020.	30/09/2020	30/12/2020	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<a href="#">The Representation of the People (Register Publication Date)(Coronavirus)(Scotland) Regulations 2020</a>  SSI 2020/287	S.13 Representation of the People Act 1983	Affirmative	Postpones the publication date of the revised electoral register from 01/12/2020 to 01/12/2021 to give electoral administrators more time to complete their canvass with reduced resources (an impact of COVID-19).	Laid 25/06/2020, made 16/09/20. To come into force the day they are made.	01/02/2021	<b>In force</b>  No change to status since last reporting period
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 15) Regulations 2020</a>  SSI 2020/288	Section 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	They remove Guadeloupe and Slovenia from the list of exempt countries and territories in Part 1 of schedule A1 of the International Travel Regulations. This means that persons arriving in Scotland at or after	19/09/2020	12 months from 08/06/2020	<b>In force</b>  No change to status since last reporting period

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			the time these regulations come into force are no longer exempt from the movement restriction in regulation 6 of the International Travel Regulations if, during the 14 days preceding their arrival, they have departed from, or transited through, Guadeloupe or Slovenia.			
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 16) Regulations 2020</a> SSI 2020/301	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	Amend the International Travel Regulations to update country exemptions and passenger information requirements.	26/09/2020	12 months from 08/06/2020	<b>In force</b> Superseded SSI 2020/378 in respect of the removal of Denmark and by SSI 2020/343 in

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
						respect of the removal of Iceland
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 17) Regulations 2020</a>  SSI 2020/307	s122(6) and (7) Public Health etc. (Scotland) Act 2008	Made Affirmative	To further amend SSI 2020/169 - the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 to remove Turkey, Poland and Bonaire, Sint Eustatius and Saba from the list of exempt countries and territories in the International Travel Regulations and add Madeira and The Azores. Travellers from exempt countries and territories are exempt from the requirement to	03/10/2020	12 months from 08/06/2020	<b>In force</b>

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			self-isolate for 14 days on arrival in Scotland.			
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 18) Regulations 2020</a>  2020/326	sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	To further amend SSI 2020/169 - the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 to remove Italy, Vatican City State and San Marino from the list of exempt countries and territories in the International Travel Regulations and add Greece excluding Mykonos. Travellers from exempt countries and territories are exempt from the	17/10/2020	12 months from 08/06/2020	<b>In force</b>  Superseded by SSI 2020/378 in respect of the addition of Greece with the exceptions of Crete, Corfu, Kos, Rhodes and Zakynthos

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			<p>requirement to self-isolate for 14 days on arrival in Scotland. Also adds an exemption for elite sportspersons travelling to the United Kingdom for medical examinations and people accompanying them to provide necessary care and support, and amends the existing exemption for elite sportspersons so that it applies to domestic elite sportspersons who have been to non-exempt countries or territories for the purposes of</p>			

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			training, and to multinational ancillary sportspersons.			
<a href="#">The Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) (Amendment) Regulations 2020</a> 2020/328	sections 94(1)(b)(i) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	To further amend The Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020 to add a 4th stage at which information is to be provided to passengers and specify the information and the way in which it is to be provided.	30/10/2020	12 months from 08/06/2020	<b>In force</b>
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland)</a>	Public Health etc. (Scotland) Act 2008 s94	Made Affirmative	To further amend SSI 2020/169 - the Health Protection (Coronavirus)	24/10/2020	12 months from 08/06/2020	<b>In force</b> Superseded by SSI 2020/354

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
<a href="#">Amendment (No. 19) Regulations 2020</a>  2020/330			<p>(International Travel) (Scotland) Regulations 2020 to remove Liechtenstein from the list of exempt countries and territories in the International Travel Regulations and add The Canary Islands, Denmark, Maldives, and Mykonos. Travellers from exempt countries and territories are exempt from the requirement to self-isolate for 14 days on arrival in Scotland. To also removes booking reference from the passenger information</p>			<p>in respect of the addition of Denmark and by SSI 2020/378 in respect of the addition of Mykonos.</p>

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			requirements in schedule 1 and add seat number or coach number (where relevant) to same and substitute the definition of a “visiting force” with a new definition and amend the exemption for oil and gas workers (schedule 2).			
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 20) Regulations 2020</a> 2020/343	Public Health etc. (Scotland) Act 2008 s94	Made Affirmative	To further amend SSI 2020/169 - the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 to remove Lithuania and Cyprus from the list of exempt countries and	31/10/2020	12 months from 08/06/2020	<b>In force</b>

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			territories in the International Travel Regulations. Travellers from exempt countries and territories are exempt from the requirement to self-isolate for 14 days on arrival in Scotland. To also remove competitions which have now concluded from the list of specified competitions in schedule 3A			
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 21) Regulations 2020</a>	Public Health etc. (Scotland) Act 2008, s94	Made Affirmative	To further amend SSI 2020/169 - the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations	The removal of Denmark came into force on 06/11/2020, removal of Germany and Sweden came	12 months from 08/06/2020	<b>In force</b>

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
2020/354			2020 to remove Denmark, Germany and Sweden from the list of exempt countries and territories in the International Travel Regulations. Travellers from exempt countries and territories are exempt from the requirement to self-isolate for 14 days on arrival in Scotland.	into force on 07/11/2020		
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 22) Regulations 2020</a> 2020/358	Section 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	To further amend SSI 2020/169 - the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 to extend the	07/11/2020	12 months from 08/06/2020	<b>In force</b>

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			requirement to stay in particular premises to members of the household of a person who has arrived in Scotland having departed from or transited through Denmark, and remove specific exemptions that apply to particular categories of person from those who have arrived from Denmark.			
<a href="#">The Town and Country Planning (General Permitted Development) (Coronavirus) (Scotland) Amendment (No. 2) Order 2020</a>	section 30 of the Town and Country Planning (Scotland) Act 1997	Negative	Would extend the duration of application of provisions in the emergency Town and Country Planning (General Permitted Development)	Made 10/11/20 to come into force 30/12/20	01/07/21	<b>Not yet in force</b>

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
2020/366			(Scotland) (Coronavirus) Amendment Order 2020 which grant temporary Permitted Development Rights (PDR) for emergency development undertaken by Health Boards and Local Authorities to manage the impacts of the virus.			
<a href="#">The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 (Fees) (Coronavirus) (Amendment) Regulations 2020</a>  2020/376	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	Negative	The amendment SSI will have the effect of extending the existing provisions of SSI 2020/163 for three months. This will ensure that the disclosure application fee of £0 for COVID-19	Made 11/11/20, coming into force on 26/12/20	25/03/21	<b>Not yet in force</b>

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
	Groups (Scotland) Act 2007		priority applications will remain on a statutory footing until 25 March 2021.			
<a href="#">The Carer's Allowance (Coronavirus) (Breaks in Care) (Scotland) Amendment Regulations 2020</a>  SSI 2020/350	SSCBA section 70(8)	Negative	To amend the Carer's Allowance (Coronavirus)(Breaks in Care)(Scotland) Regulations so as to extend the duration of the coronavirus easement to 12 May 2021 at 2359 hours.	Made 3/11/20 to come into force 3/12/20	12/05/21	<b>Not yet in force</b>
<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 24) Regulations 2020</a>  SSI 2020/404	sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Removes Latvia and Estonia from the list of exempt countries or territories or in the international travel regulations. Adds Aruba, Bhutan,	28/11/20	12 months from 08/06/2020	<b>In force</b>

SSI title and number	Power under which SSI was made	Parliamentary procedure to which SSI was subject	Brief description of what the SSI does	Date(s) of commencement	Period for which it has effect	Status at the end of the reporting period (30 Nov 2020)
			<p>Kiribati, Micronesia, Mongolia, Samoa, Solomon Islands, Timor-Leste, Tonga, Vanuatu, Israel and Jerusalem, Namibia, Rwanda, Sri Lanka, Bonaire, Sint Eustatius and Saba, Uruguay, Northern Mariana Islands and the US Virgin Islands to the list of exempt countries or territories in the international travel regulations. Travellers from these countries and territories are exempt from the requirement to self-isolate for 14</p>			

<b>SSI title and number</b>	<b>Power under which SSI was made</b>	<b>Parliamentary procedure to which SSI was subject</b>	<b>Brief description of what the SSI does</b>	<b>Date(s) of commencement</b>	<b>Period for which it has effect</b>	<b>Status at the end of the reporting period (30 Nov 2020)</b>
			days on arrival in Scotland.			



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