

# **Fairer Scotland Duty**

## **Coronavirus (Scotland)(No. 2) Bill**

**May 2020**



**Scottish Government**  
Riaghaltas na h-Alba  
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## FAIRER SCOTLAND DUTY

<b>Title of Policy, Strategy, Programme etc</b>	<b>Coronavirus (Scotland)(No. 2) Bill</b>
<b>Summary of aims and expected outcomes of strategy, proposal, programme or policy</b>	<p>The purpose of the Coronavirus (Scotland)(No. 2) Bill (“the Bill”) is to respond to the emergency situation caused by the coronavirus outbreak. The Bill complements and supplements the Coronavirus (Scotland) Act 2020, passed by the Scottish Parliament on 1 April 2020, and the Coronavirus Act 2020, passed by the UK Parliament on 25 March 2020, to which the Scottish Parliament gave its consent on 24 March 2020.</p> <p>The coronavirus outbreak is a severe and sustained threat to human life in Scotland. The Scottish Government is committed to taking all steps necessary to address that threat. A severe pandemic could infect a large proportion of the population, and the public health measures required to control and limit the spread of the outbreak require a significant adjustment to the lives of those living in Scotland, to business in Scotland, and to the way public services are delivered and regulated.</p> <p>Even beyond the new restrictions on living and working in Scotland, the coronavirus outbreak continues to have an effect on essential public services which demands a response. The continuing shift in resourcing and prioritisation for central and local government, and those involved in health and social care, will require a number of the obligations and duties on public services in Scotland to be adjusted temporarily, to reflect the importance which the Scottish Government places on responding to the coronavirus outbreak, and protecting the health of people living in Scotland.</p> <p>In deciding to progress further emergency legislation in response to the coronavirus outbreak, the Scottish Government has taken into account its responsibility first and foremost to protect the lives and health of people living in Scotland. It has also borne in mind the unprecedented pressures on Scottish business and on the public sector in Scotland, and the effect of the substantial adjustment to the way people are being asked to live by public health guidance, and required to live by the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020.</p>

To support these aims, the Bill takes the following measures:

- it makes adjustments to laws which protect individuals to ensure their effective operation during the coronavirus outbreak;
- it makes adjustments to criminal procedure, and to other aspects of the justice system, to ensure that essential justice business can continue to be disposed of throughout the coronavirus outbreak;
- it makes a range of provision designed to ensure that business and public services can continue to operate effectively during a period where controls on movements have been imposed, and when pressures on public services are acute.

Certain measures included in this Bill have implications for the inequalities experienced by socio-economically disadvantaged groups:

- The introduction of notice to leave periods for a tenant's termination of a student residential tenancy will have a positive impact for students from a disadvantaged background who are in a relatively vulnerable financial position.
- The Coronavirus Carer's Allowance Supplement will help to mitigate negative financial impacts of the outbreak, and help to relieve some of the stress associated with additional and different caring responsibilities, for carers, who are typically in the lower half of income deciles.
- Intimation of documents on the Scottish Courts and Tribunal Service (SCTS) website rather than the walls of court may have an impact for households who have less access to devices and the internet and devices for accessing it.
- Extension of the deadline for accounts of registered social landlords will facilitate their focus on delivering and maintaining essential services to their tenants and communities, a high proportion of whom have low incomes.
- Extending the 12 month deadline for preparing and publishing the statement on local connection as required by section 33B(1) of the 1987 Act by 6 months will give local authorities and third sector front-line services the time and space needed to focus efforts on responding to the outbreak on behalf of those who are homeless or threatened with homelessness.

	<p>The Scottish Government has assessed the potential impact of the other measures in this Bill on individuals experiencing socio-economic disadvantage and has determined that no adverse effect on those groups is anticipated in respect of those measures. It has also determined that measures to increase accessibility of minimal asset procedure (MAP) bankruptcy will benefit in particular those with low income, since having no surplus income is one of the qualifying criteria for MAP. In similar vein, as those facing unsustainable debt are concentrated amongst those with low wealth and low income, increasing the minimum debt level required before a creditor can petition for bankruptcy is also likely to bring benefits in particular to these groups.</p>
<p><b>Summary of evidence</b></p>	<p>Evidence is available on the disadvantages experienced by the impacted groups identified above. For instance:</p> <ul style="list-style-type: none"> <li>• The Child Poverty Action Group have highlighted the problems and pressures that may be experienced by students in Scotland claiming Universal Credit.<sup>1</sup></li> <li>• Carers experience socio-economic disadvantage to a greater extent than other groups. They may face additional financial burdens because of their caring responsibilities through for example higher utility bills, modifications to the home to meet the needs of the cared for person.<sup>2</sup> In a UK survey of carers, four in ten carers indicated that they had been in debt as a result of caring and five in ten felt that financial worries were affecting their health.<sup>3</sup> The coronavirus outbreak is likely to have a lasting impact on many carers' finances, with jobs and income levels affected alongside changes in lifestyle. Caring already carries increased costs, but there may be further costs from heating, equipment for adapting the home, technology, or the need to find specialist food. In an online survey of UK carers conducted in April 2020, 38% agreed with the statement "I am worried about my financial situation".<sup>4</sup></li> </ul>

<sup>1</sup> Child Poverty Action Group (2020) Students and Universal Credit – February 2019 briefing <https://cpag.org.uk/scotland/policy-campaigns/briefing/students-and-universal-credit>

<sup>2</sup> Scottish Government (2015) Scotland's Carers <https://www.gov.scot/publications/scotlands-carers/pages/4/> ;

<sup>3</sup> Carers UK (2014) State of Caring 2014 <http://www.carersuk.org/for-professionals/policy/policy-library/state-of-caring-2014>

<sup>4</sup> Carers UK (2020) Caring behind closed doors [http://www.carersuk.org/images/News\\_and\\_campaigns/Behind\\_Closed\\_Doors\\_2020/Caring\\_behind\\_closed\\_doors\\_April20\\_pages\\_web\\_final.pdf](http://www.carersuk.org/images/News_and_campaigns/Behind_Closed_Doors_2020/Caring_behind_closed_doors_April20_pages_web_final.pdf)

- Lower income households in Scotland are less likely to have a broadband connection<sup>5</sup>, and may rely on libraries and other community resources currently closed to make use of the internet. This will leave them without the access that connected households have to the SCTS website.
- In 2017, 69% of social rented households in Scotland had a net income of £20k or less, of which 47% had a net income of less than £15k; around 3 in 5 social rented households received housing benefit or the housing element of Universal Credit.<sup>6</sup>

Since this is emergency legislation, there has been no opportunity to gather the level of formal evidence for the impacts of policy measures that would normally inform a Fairer Scotland Duty assessment. However, informal consultation with student accommodation providers including universities, colleges, PBSA providers, their representative bodies, and students' organisations on the measures to introduce a period of notice for student tenancies has been undertaken. Ongoing engagement with carer organisations in Scotland on the impact of the coronavirus outbreak on unpaid carers has been a key consideration in developing these provisions. These changes will be communicated to carer organisations, and will be communicated to carers and the public generally via the Scottish Government and Social Security Scotland websites.

The Scottish Government has discussed provisions to display documents on the SCTS website rather than court walls with SCTS. This has been identified as a key measure to provide for the continuation of civil and commissary business, aspects of which would otherwise be unable to proceed during the coronavirus outbreak.

The Scottish Government has also consulted relevant stakeholders on measures to extend the deadline for accounts of registered social landlords through the Social Housing Resilience Group. Its participants include representatives from across the social housing sector, including the Scottish Housing Regulator, the Scottish Federation of Housing Associations and the Glasgow and

<sup>5</sup> Scottish Government (2019) Scottish household survey 2018: key findings <https://www.gov.scot/publications/scottish-household-survey-key-findings-2018/pages/9/>

<sup>6</sup> Scottish Government(2019) Social tenants in Scotland <https://www.gov.scot/publications/social-tenants-scotland-2017/pages/2/>

	<p>West of Scotland Forum of Housing Associations. These stakeholders are supportive of the measures in the Bill.</p> <p>The difficulties of consulting on the local connection statement during the response to the coronavirus outbreak have been discussed with representatives of local authorities, including the Convention of Scottish Local Authorities. They agreed that the deadline should be extended.</p>
<p><b>Summary of assessment findings</b></p>	<p>It is not reasonable to expect students, particularly those with constrained financial circumstances, to continue to bear the financial burden of a tenancy where the purpose of that tenancy has or may become, fundamentally undermined.</p> <p>The Scottish Government has considered a range of legislative options to make payments to unpaid carers. Operationally, these provisions are the only feasible way to deliver the payment in current circumstances. It has the advantage of being an automated payment not requiring an application, which is beneficial to time-poor carers. This approach also has minimal impact on the Social Security programme, on the ongoing delivery of live benefits by Social Security Scotland and on the Department for Work and Pensions (which continues to deliver carer's allowance in Scotland on behalf of the Scottish Ministers under an agency agreement).</p> <p>An Equalities Impact Assessment has been completed assessing impacts for groups with protected characteristics. It identifies that the Coronavirus Carer's Allowance Supplement (CCAS), will have a direct positive impact act on women, and an indirect positive impact on the disabled adults and children they care for.</p> <p>CCAS is expected to have a positive impact on the finances of carers on lower incomes which may reduce the gap between carers with more and fewer economic resources. Carer's Allowance Supplement recipients tend to be in the lower income deciles. Research has shown that poverty levels among carers increases with the amount of care provided<sup>7</sup> and that adults in the most deprived areas are more likely to provide regular unpaid care than those in the least deprived areas (18% versus 13% respectively)<sup>8</sup>. There is an income threshold for</p>

<sup>7</sup> New Policy Institute (2016) [Informal Carers, Poverty and Work](#)

<sup>8</sup> Scottish Government (2019) [Scottish Health Survey 2018 Volume 1 – Main Report](#)

	<p>Carer’s Allowance (CA) which means that recipients cannot earn more than £128 per week through paid work (in 2020-21), and, though some recipients may have significant capital and non-earnings income, most are expected to have lower than average earnings.</p> <p>The majority of CA recipients (69%) are women<sup>9</sup>. Evidence shows that women are more likely to rely on social security payments as part of their incomes as men, and there is some evidence that women typically act as ‘poverty managers’, going without food and other vital resources so that other family members do not.<sup>10</sup></p> <p>There is some initial evidence to show women may be disproportionately affected by the economic impact of the pandemic due to lower incomes and increased caring responsibilities.<sup>11</sup></p> <p>No alternative approaches have been identified to the normal requirement for display of documents on court walls other than display on the SCTS website. Advertisement in a newspaper is often an option for some civil matters. However, given the restricted movement of people during the coronavirus outbreak, it is considered that newspaper advertisement should not be the only option available. If the court is to continue to have viable options to consider, it is necessary to permit the display of documents on the SCTS website.</p> <p>There are no alternative approaches that can be taken to extend the accounting deadline for social landlords or the deadline for the Ministerial statement on referral of application for accommodation to another local authority.</p> <p>The Scottish Government considers that the proposed extensions to deadlines are a reasonable and proportionate measure to ensure that registered social landlords are not unreasonably penalised and that local authority and other services for homeless groups are not overburdened during the current crisis.</p> <p>The Scottish Government is satisfied that all of the measures contained in the Bill are appropriate and</p>
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<sup>9</sup> Summary statistics for Carer’s Allowance at May 2019, Social Security Scotland

<sup>10</sup> Sources: CAS Business Case 2018; Close the Gap (2020) Working Paper 21: Gender Pay Gap Statistics; and Engender (2016) Securing women’s futures: using Scotland’s social security powers to close the gender equality gap

<sup>11</sup> Sources: <https://views-voices.oxfam.org.uk/2020/04/care-poverty-and-coronavirus-across-britain/> <https://www.carersuk.org/for-professionals/policy/policy-library/caring-behind-closed-doors-report>

	<p>proportionate, but, in line with requirements set out in the Coronavirus (Scotland) Act 2020, the Bill contains the following safeguards:</p> <ul style="list-style-type: none"> <li>• Part 1 of the Bill will automatically expire less than six months after it comes into force. The Scottish Parliament may extend this for two further periods of six months, giving Part 1 of the Bill a maximum duration of 18 months;</li> <li>• where a provision in Part 1 of the Bill is no longer considered necessary, Scottish Ministers may bring it to an end earlier than on this six-monthly schedule;</li> <li>• Scottish Ministers are required by the Bill to report on the continued need for the measures, and on the use of powers in the Bill, every two months.</li> </ul> <p>The Scottish Government is committed to undertaking a Fairer Scotland Duty assessment to review the urgent measures contained in the Coronavirus (Scotland) Act 2020 at the end of its initial period (30 September 2020).</p> <p>The Scottish Government considers that the end of that period represents the strongest opportunity for a Fairer Scotland Duty assessment to review the urgent measures contained in this Bill against evidence around the issues outlined above.</p> <p>Therefore, an assessment considering both the Coronavirus (Scotland) Act 2020 and this Bill will be completed at that time to identify further opportunities to reduce or mitigate inequalities arising for socio-economically disadvantaged groups.</p>
<p><b>Sign off</b></p>	<p><b>Name: James Hynd</b></p> <p><b>Job title: Deputy Director - Head of Cabinet, Parliament and Governance Division</b></p> <p><b>6 May 2020</b></p>



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