

# **Coronavirus (Extension and Expiry) (Scotland) Bill**

**Fairer Scotland Duty**

**June 2021**



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

Title of Policy, Strategy, Programme etc.	Coronavirus (Extension and Expiry) (Scotland) Bill
<p>Summary of aims and expected outcomes of strategy, proposal, programme or policy</p>	<p>The purpose of the Coronavirus (Extension and Expiry) (Scotland) Bill (“the Bill”) is to update a range of existing legislative measures which support various aspects of the ongoing response to the public health emergency caused by the coronavirus (COVID-19) pandemic. The Bill amends the Coronavirus (Scotland) Act 2020, passed by the Scottish Parliament on 1 April 2020, and the Coronavirus (Scotland) (No.2) Act 2020, passed by the Scottish Parliament on 20 May 2020 (“the Scottish Acts”). An interim Fairer Scotland Duty Assessment<sup>1</sup> accompanied the Coronavirus (Scotland) (No.2) Bill on its introduction.</p> <p>The Bill amends the expiry dates in Parts 1 of the Scottish Acts while at the same time it also expires a number of provisions which are no longer considered necessary. The effect of this is to extend only those provisions which the Scottish Government considers remain essential in order for public services to be able to continue to discharge their functions in the way they were intended to. Many of the provisions contained in the two Scottish Acts have already been expired in line with the Government’s commitment to remove provisions that are no longer required to respond to the public health emergency.</p> <p>Certain temporary measures to be expired by the Bill have implications for the inequalities experienced by socio-economically disadvantaged groups:</p> <ul style="list-style-type: none"> <li>• The aim of the Coronavirus Carer’s Allowance Supplement was to improve outcomes for carers in receipt of Carer’s Allowance by providing some additional financial support to mitigate the impacts of the coronavirus pandemic. Payment was made successfully to over 80,000 unpaid carers at the end of June 2020. Around 83,000 carers are expected to benefit once all backdated payments are made. The Scottish Government is content that backdating can continue beyond expiry of the provision on the basis that the Interpretation and Legislative Reform</li> </ul>

<sup>1</sup> Coronavirus (Scotland) (No. 2) Bill: Fairer Scotland Duty impact assessment

(Scotland) Act 2010 will protect individual rights acquired while the provision was in force.

- The aim of the temporary social security provisions (Section 8 and schedule 7 paragraph 1(b) and 5 of the Coronavirus (Scotland) Act 2020) was to support, during the escalating coronavirus pandemic, Social Security Scotland in being able to maintain their services at 'pre-covid-19' levels, and to recognise that individuals might need a longer period of time to provide information to inform a re-determination if they were impacted by coronavirus. These provisions applied equally to anyone requesting a redetermination, and the Scottish Government is of the view that the expiry of the provisions, resulting in a return to the original pre-COVID legislative arrangements will have no separate impact and will not cause any inequality for socio-economically disadvantaged groups.

Certain temporary measures in the Scottish Acts which will be extended beyond 30 September as a result of the amendment to the expiry date of those Acts have implications for the inequalities experienced by socio-economically disadvantaged groups:

- Those facing unsustainable debt are concentrated amongst those with low wealth and low income - the extension of the moratorium period to provide breathing space for an individual to seek money advice and find a solution to problem debt is likely to bring benefits in particular to these groups. Measures to further protect those with unsustainable debt include increasing the minimum debt level a creditor must be owed to petition bankruptcy through the Courts from £3,000 to £10,000.
- The eviction from dwelling houses provisions will continue to have a positive impact for tenants in the private and social rented sectors who have been impacted during the pandemic and find themselves in a vulnerable financial position.
- The retention of 28 day notice to leave periods for a tenant's termination of a student residential tenancy in college or university accommodation on Purpose Built Student Accommodation (PBSA) will have a positive impact for students from a disadvantaged background who are in a relatively vulnerable financial position. The Scottish Government does not anticipate a significant negative impact of the expiry of the seven day notice period provisions.

	<ul style="list-style-type: none"> <li>• 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 the internet and devices for accessing it.</li> <li>• Publication of certain documents online by public authorities at times when physical access to view documents in offices and libraries may have an impact for households who have less access to the internet and devices for accessing it.</li> </ul> <p>The Scottish Government has assessed the potential impact of the other temporary measures to be expired by this Bill on individuals experiencing socio-economic disadvantage and has determined that no effect on those groups is anticipated in respect of a return to the pre-COVID legislative arrangements.</p> <p>The Scottish Government has also assessed the potential impact of the extension of the other temporary measures in the Scottish Acts beyond 30 September on individuals experiencing socio-economic disadvantage and has determined that no effect on those groups is anticipated in respect of those measures.</p>
Summary of evidence	<p><u>Provisions in the Scottish Acts to be expired on 30 September 2021, resulting in a return to pre-COVID legislative arrangements</u></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>• 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 pandemic 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</li> </ul>

<sup>2</sup> Scotland's Carers - gov.scot ([www.gov.scot](http://www.gov.scot))

<sup>3</sup> State of Caring 2014 - Carers UK

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>

- The continuing and extended Covid-19 restrictions, have brought additional stresses to unpaid carers, including a reduction in the formal health and social care provision for the people they care for. In a November 2020 survey of people receiving care at home and family or unpaid carers of people receiving care at home, more than half (54%) reported that care was reduced or stopped during the pandemic.<sup>5</sup>

Provisions in the Scottish Acts to be extended beyond 30 September 2021 as a result of Bill extending Part 1 of those Acts

Evidence is available on the disadvantages experienced by the impacted groups identified above. For instance:

- Citizens Advice Scotland’s research has shown that almost two in five people in Scotland are concerned about their income during the COVID-19 pandemic.<sup>6</sup> The debt advice charity Stepchange has estimated that 2.87 million people affected by coronavirus are now at high risk of long-term debt problems.<sup>7</sup> Many charities are predicting that the UK is facing a debt crisis in the coming months as government business support schemes are wound down and creditor forbearance reaches its end point. Almost inevitably this will result in large numbers of people facing issues with problem debt.
- 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>8</sup>
- 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

<sup>4</sup> [Caring behind closed doors \(April 2020 - carersuk.org\)](#)

<sup>5</sup> [Care at Home Survey Results \(Nov 2020\)](#)

<sup>6</sup> [Almost 2 In 5 People Worried About Income As Concerns About Bills Rise | Citizens Advice Scotland](#) (accessed 09 February 2021)

<sup>7</sup> [StepChange: Covid-19 client report - December 2020](#)

<sup>8</sup> [Social tenants in Scotland 2017 - gov.scot \(www.gov.scot\)](#)

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 was lifted, and 25% of private tenants had already fallen behind with a payment, most likely gas, electricity and other bills<sup>9</sup>. A more recent polling survey commissioned by the Joseph Rowntree Foundation in October 2020 indicated that concerns about ability to pay rent were continuing, with 35% of households in Scotland being worried about paying their rent over the next three months, an increase of 16 percentage points on the pre-COVID-19 position.

- The Child Poverty Action Group have highlighted the problems and pressures that may be experienced by students in Scotland claiming Universal Credit.<sup>10</sup>
- Lower income households in Scotland are less likely to have a broadband connection<sup>11</sup>, and may rely on libraries and other community resources, which may at times require to be closed, to make use of the internet. This will leave them without the access that connected households have to public authority websites, including SCTS.
- The provisions that enable participation in either criminal or civil proceedings by way of live visual (television) or audio (telephone) link from any location have been accompanied by measures in place to alleviate any adverse socio- economic impacts .

Given the need to continue to respond to the public health emergency, there is no alternative to this Bill which the Government proposes to progress under the emergency procedure. Due to the pre-election period and the need to have this legislation in force by 30 September 2021, 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, section 15 of the Coronavirus (Scotland) Act 2020 and section 12 of the Coronavirus (Scotland) (No.2) Act 2020 require the Scottish Government to review and report on the operation of the provisions in Part 1 of the Scottish Acts every two months. As part of that reporting process, the Scottish Government consults with relevant

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<sup>9</sup> Almost a third of Scots' incomes have reduced in lockdown, with half of affected renters worried about paying rent | JRF

<sup>10</sup> Students and universal credit | CPAG

<sup>11</sup> Scottish household survey 2018: key findings - gov.scot ([www.gov.scot](http://www.gov.scot))

stakeholders on individual measures, where appropriate. Therefore, while no formal consultation or evidence gathering has been possible, the Scottish Government has built on the informal consultation carried out as part of the regular reporting process and has informally consulted, as appropriate, with stakeholders affected by the measures to be expired and extended by the Bill.

Informal consultation with student accommodation providers through the Student Accommodation Group including universities, colleges, PBSA providers, their representative bodies, and students' organisations on the measures to extend the period of notice for student tenancies has been undertaken indicated they were content with a temporary extension of the measures, although Scottish Government officials have not had the opportunity to consult in relation to the expiry of the seven day notice period.

Informal consultation with key tenant and landlord representative groups has also taken place with regards to the extension of the provisions relating to evictions within the rental sector and wider engagement will be possible through the already established Private Rented and Social Housing Resilience Groups.

While recognising some public documents will be published on public authority websites and not always able to be made routinely available to view at public offices and libraries, some informal consultation with planning authority representatives noted that demand to view documents in person had been very low before the pandemic and that authorities would be able to make one-off arrangements where needed.

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 pandemic.

Informal consultation has taken place with the Law Society of Scotland and Faculty of Advocates with regard to provisions which remove a "physical presence" requirement and allow for the adoption of alternative appropriate means of executing documents and oaths etc. For example, notaries public may now execute remotely by electronic means such as live video connection. Whilst access to a stable internet connection is a prerequisite,

	<p>this has been identified as a key measure to provide for the continuation of such legal services during the pandemic.</p>
<p>Summary of assessment findings</p>	<p><u>Provisions in the Scottish Acts to be expired on 30 September 2021, resulting in a return to pre-COVID legislative arrangements</u></p> <p>The aim of the Coronavirus Carer's Allowance Supplement was to improve outcomes for carers in receipt of Carer's Allowance by providing some additional financial support to mitigate the impacts of the coronavirus pandemic. Payment was made successfully to over 80,000 unpaid carers at the end of June 2020. Around 83,000 carers are expected to benefit once all backdated payments are made. The Scottish Government intends to expire the provision in September 2021 and is content that backdating can continue beyond expiry of the provision on the basis that the Interpretation and Legislative Reform (Scotland) Act 2010 will protect individual rights acquired while the provision was in force. Separate legislation will be introduced by the Scottish Government to allow for provision to be made for a subsequent increase to carer's allowance supplement for the period of 1 October 2021 to 31 March 2022.</p> <p>The aim of the temporary social security provisions was to support, during the escalating coronavirus pandemic, Social Security Scotland in being able to maintain their services at 'pre-covid-19' levels, and to recognise that individuals might need a longer period of time to provide information to inform a re-determination if they were impacted by coronavirus. The Scottish Government intends to expire the provision in September 2021 and is content a redetermination process already commenced on the basis of the provisions in the Scottish Acts can continue beyond expiry of the provision as though it were still in force, on the basis that the Interpretation and Legislative Reform (Scotland) Act 2010 will protect individual rights acquired while the provision was in force. Otherwise, the expiry of these temporary provisions will result in a return to the original legislative arrangements in place prior to the coronavirus pandemic, such that redeterminations will be required to once again be made within the original timescale. The social security provisions applied equally to anyone requesting a redetermination, and any use of the provisions is based only on the need to mitigate the impact of delays in processing</p>

redeterminations as a result of disruption caused by coronavirus. The Scottish Government has therefore concluded that the expiry of the provisions will have no separate impact and will not cause any inequality for socio-economically disadvantaged groups.

Provisions in the Scottish Acts to be extended beyond 30 September 2021 as a result of the Bill extending Part 1 of those Acts

It is appropriate to extend the provisions that provide additional protection for those dealing with the consequences of problem debt. Those facing unsustainable debt are concentrated amongst those with low wealth and low income. The extension of the moratorium period to provide breathing space for an individual to seek money advice and find a solution to problem debt is likely to bring benefits in particular to these groups. The extended period of moratorium has been utilised - there were 2,152 applications for moratoria protection granted in the 12 months to April 2021 (inclusive) compared with 1,060 for the previous 12 months. Measures to further protect those with unsustainable debt include increasing the minimum debt level a creditor must be owed to petition for bankruptcy through the Courts from £3,000 to £10,000.

It is appropriate to extend the eviction from dwellings provisions as this will mean that tenants who may only now be experiencing the negative effects of the pandemic, or who are made redundant following the end of the furlough scheme, can benefit from the additional time provided under the extended notice periods to apply for, and receive, the available support in the short term. This is particularly important since the evidence suggests that tenants in the private rented sector are experiencing financial difficulty due to the coronavirus and are finding themselves unable to meet their obligations under their tenancy agreement.

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.

Whilst there is ongoing uncertainty in relation to the impact of Covid-19, especially in relation to unrestricted access to court buildings and the free movement of people, intimation on the walls of court would serve no purpose

and a significant number of cases would not be able to proceed. Advertisement in a newspaper is often an option for some civil matters but given the continuing reduction of newspaper circulation and often limited audience, 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 extend the provisions allowing publication of documents on the SCTS website. Whilst SCTS has found no evidence to suggest that online publication of documents has failed to reach any particular group, to mitigate any negative impact to those groups that have been identified as having less access to online technologies, such as households who have less access to the internet and devices for accessing it, the information which would be provided on the walls of the court can be relayed to any member of the public via a phone call to the court.

No alternative approaches have been identified to publication of certain public documents online at times when making them available to view in offices and libraries is not possible. To maintain public services, the alternative would have been to remove publication requirements entirely, which would have denied people the opportunity to scrutinise public bodies' business and decision-making, and which would not have been an acceptable option.

The Scottish Government plans to continue the exemption from council tax liability for a property that was exempt from paying council tax due to being occupied by students, a student's spouse or dependant(s), school leavers, or people under the age of 18, and which then became unoccupied on or after 17 March 2020 for a reason relating to coronavirus. From (and including) 27 May 2020 such a property has been exempt from paying council tax. It is the Scottish Government's intention that this measure should be extended beyond 30 September 2021 to continue the council tax exemption for properties in this situation. This will ensure that landlords of such properties are not required to pay council tax due to the impact of the pandemic, when in normal times they would not be doing so due to the property being occupied by one of the specified groups.

The Scottish Government is satisfied that all of the measures contained in the Bill are appropriate and proportionate.

	<p>The Scottish Acts contained measures which were required to respond to an emergency situation. The Acts contained a number of safeguards. These included: the relevant provisions in the Acts automatically expired less than six months after they came into force, although this could be extended by the Scottish Parliament for two further periods of six months; where a provision was no longer considered necessary, Scottish Ministers may bring it to an end earlier; Scottish Ministers are required to report on the continued need for the measures, and on the use of powers in the Scottish Acts, every two months.</p> <p>These safeguards will continue to be in place for the duration of the extension period, with the expiry dates of Parts 1 of the Scottish Acts being extended by this Bill for a six month period to 31 March 2022, with the Scottish Parliament given the power to extend the Acts for a further period of six months to 30 September 2022. Any such regulations would be made only if deemed necessary at that time. The Bill contains no provision to extend the Acts beyond 30 September 2022.</p> <p>A number of provisions are expired in this Bill which, following engagement with stakeholders, are no longer deemed necessary to have in place beyond 30 September 2021. The Scottish Government remains committed to keeping the provisions of the Scottish Acts, as extended by this Bill, under review at all times, under the now established review scheme.</p> <p>The Scottish Government continues to work to identify further opportunities to reduce or mitigate inequalities arising for socio-economically disadvantaged groups as a result of the coronavirus pandemic.</p>
Sign off	<p>Name: James Hynd</p> <p>Job title: Deputy Director - Head of Cabinet, Parliament and Governance Division</p> <p>4 June 2021</p>



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