

Coronavirus (Discretionary Compensation for Self-isolation) Bill

**Fairer Scotland Duty Impact
Assessment (FSD)**

November 2021



Scottish Government
Riaghaltas na h-Alba
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Fairer Scotland Duty: Summary

	<p>Title Coronavirus (Discretionary Compensation for Self-isolation) (Scotland) Bill</p>
	<p>Background and Aims</p> <p>The Bill makes temporary modifications to the Public Health etc. (Scotland) Act 2008 (“the 2008 Act”) so that Health Boards have discretion as to whether to pay compensation for self-isolation in connection with coronavirus.</p> <p>The 2008 Act contains, at section 56, a duty on Health Boards to compensate people who are asked in writing by the Health Board to voluntarily quarantine, or to limit their movements or activities. Section 58 of the same Act sets out a further duty on Health Boards to compensate carers of those people and carers of people subject to an exclusion order, restriction order or quarantine order. A temporary modification of these duties was contained in paragraph 46 of schedule 21 of the Coronavirus Act 2020 (“the UK Act”), which was a response to the situation caused by the COVID-19 pandemic.</p> <p>The modification made by the UK Act changed the duty on Health Boards to pay compensation to a discretionary power to do so, during times that Scotland is in a “transmission control period” by virtue of a statutory declaration made under paragraph 25 of schedule 21 of that Act. The statutory declaration must be revoked by the Scottish Ministers when they are no longer of the view that COVID-19 is a serious and imminent threat to public health, and that the powers in schedule 21 of the UK Act remain a suitable means to reduce transmission. If the statutory declaration is revoked, and accordingly the modifications made by paragraph 46 of schedule 21 of the UK Act cease to be of effect, at a time when people are still being asked by Health Boards to voluntarily self-isolate as a result of the COVID-19 pandemic, Health Boards will be under an obligation to pay compensation to those people and to their carers.</p> <p>The Scottish Government considers it appropriate that the duty on Health Boards to pay compensation is reinstated in respect of requests to self-isolate for reasons other than COVID-19, and that where the request is made for COVID-19 related reasons, the payment of compensation continues</p>

to be discretionary for an initial 6 month period from commencement of the Bill. This period is subject to amendment by the Scottish Ministers.

Factors that will be considered by the Scottish Ministers when considering whether that period should be shortened or extended are as follows:

- whether people are still being asked, under public health guidance, to self-isolate in certain circumstances due to COVID-19;
- whether alternative financial support for people self-isolating is available, either through the existing Self-Isolation Support Grant (“SISG”) or another mechanism;
- whether the expiry of the provisions would present a significant resource burden on Health Boards at a scale greater than that envisaged as part of the development of the 2008 Act.

Expected outcomes

The expected outcome of the Bill successfully passing, and the modification remaining in place, is that a Health Board may pay compensation to a person who receives a written request from the Health Board requesting them to self-isolate, and the carers of such a person, and carers of people subject to an exclusion order, restriction order or quarantine order, but the Health Board is not under an obligation to do so in respect of Coronavirus.

Alternative support for self-isolation

To date, while the 2008 Act has been modified by the UK Act, the Scottish Government has ensured that alternative financial and practical support has been in place during the pandemic. For example, the SISG provides £500 to workers who lose income as a result of self-isolating (or caring for someone who is self-isolating) and earn the Real Living Wage or less. The Grant is also available to those who are in receipt of Universal Credit (“UC”) or other low income benefits or whose family income is within 25 per cent of UC rates. This more targeted approach to financial support was considered a more proportionate response given the scale of the pandemic.

The SISG has been adapted in the course of the pandemic, to provide support to larger cohorts of people and help those who need it. Eligibility for the SISG was first extended in November 2020, to include parents of those who are isolating, and was expanded again in February 2021 to include workers earning the real living wage or less, as well

as those in receipt of a council tax reduction as a result of low incomes.

Eligibility was also extended to include those with caring responsibilities for someone over 16 who is asked to self-isolate, where the carer themselves meet the other eligibility criteria, and the period of time during which people could apply was extended to 28 days. These expansions have taken into account increased transmission of the virus, the increased risk of transmission for those on low incomes and the equalities impacts outlined below, in order to provide as equitable a suite of support for people who are isolating as possible. In addition, the Local Self-Isolation Assistance Service provides practical support such as help with essential food and medicine deliveries, and the National Assistance Helpline can be called by anybody with enquiries relating to COVID-19 to receive advice and support.

The intention is to continue this financial and practical support so that it is in place while the new modifications in this Bill have effect.

Cost implications

If the 2008 Act were not modified by this Bill, when the existing modifications come to an end Health Boards would be obliged to compensate people they ask to self-isolate for their losses.

The modification prevents Health Boards from facing a significant administrative and financial burden as a result of compensation claims from those who are isolating. This pandemic is unprecedented and if the provision of the 2008 Act to pay compensation to those told to self-isolate by Health Boards remained, it would result in a substantial administrative and financial burden across the health system.

The Scottish Government estimates that the cost of this compensation would be up to twenty times the cost of the current SISG - some £380 million in 2021/22¹, based on the Scottish Fiscal Commission's ("SFC") forecast expenditure on SISG of £18.8m². This estimate assumes that compensation would apply to all losses incurred, including for those on high incomes, and would as a result be much

¹ This is the cost of universal compensation for losses resulting from self-isolation, regardless which public authority made the request to self-isolate.

² [Scotland's Economic and Fiscal Forecasts - January 2021 \(fiscalcommission.scot\)](https://www.fiscalcommission.scot/)

	<p>more costly than the means-tested SISG. The estimate also depends on the number of people asked to self-isolate. While the cost of SISG would increase if the number of people asked to self-isolate turns out to be higher than assumed by SFC, the estimated cost of full compensation would increase by a higher amount.</p> <p>In the absence of the modifications provided by this Bill, and by the UK Act before that, compensation for self-isolation would be paid out by Health Boards. If the costs of compensation were met by Health Boards, this would divert resources away from the provision of healthcare and impact on Health Boards' ability to respond to the pandemic, all whilst they are under significant pressure.</p> <p>The alternative would be for funding to be provided by the Scottish Government, which would require compromises to be made in other areas of the Scottish Government's budget. During the pandemic, difficult decisions have had to be taken at every turn to ensure that public funds were put to their best possible use.</p> <p>This means that essential targeting of support, to make sure that impacts are mitigated inequalities are addressed as effectively as possible, is vital to ensure value for money and the best use of public resources.</p> <p>Providing full compensation to those isolating would be to the detriment of other services and Health Boards operating on the front line of the pandemic. Delivering a targeted support for isolation offer towards lowest income groups ensures that funding is directed to where it is most needed, at an appropriate cost to the public purse.</p>
	<p>Summary of evidence</p> <p>This summary should be read alongside the Equalities Impact Assessment for the Bill.</p> <p>The Bill affects people who self-isolate, following a written request from a Health Board asking them to do so, and suffer losses as a result. It also affects carers who suffer losses as a result of people they care for being asked by a Health Board to self-isolate or being subject to an exclusion order, restriction order or quarantine order. The most significant loss is likely to be lost income.</p>

While COVID-19 affects all parts of society, not everyone who self-isolates will suffer loss as a result. People who are able to work from home may be able to maintain an income through a period of isolation. Some people will be entitled to contractual sick pay if they are unable to work due to self-isolation and others will be entitled to statutory sick pay (“SSP”). SSP has been adapted to apply from day one of an absence during this pandemic and is available to people who self-isolate as a result of being a close contact of someone who has COVID-19, as well as to those who have tested positive themselves. While SSP may not cover 100% of a person’s lost income, it reduces the amount lost due to being absent from work.

The people who are most likely to lose all of their income due to self-isolation are those who cannot work from home, are not entitled to contractual sick pay and are not eligible for SSP. This is more likely to be people who work in transient or zero hours contracts, those who are self-employed, or those earning below a certain income. In addition, those on lower incomes are more likely to work in jobs which, by necessity, will see people interacting with people directly and therefore face an increased risk of contracting COVID-19 and having to self-isolate.³

People in these groups tend to have lower levels of income overall, so the knock-on impacts of losing this income can be both socially and individually significant.⁴ Scottish Government analysis estimates that 37 per cent of families are financially vulnerable, and as a result of losing employment, may fall behind on payments for essentials or rent, leading to economic insecurity, anxiety, a lack of ability to pay for food or other essentials, which can also have significant health outcomes, especially on children and families. These impacts also have a social cost, with more families and individuals needing wider support as a result of this economic vulnerability.⁵

ScotCen Social Research was commissioned by the Scottish Government to carry out a mixed mode study of adults asked to self-isolate by Test and Protect either because they tested positive for COVID-19, were in contact with someone that tested positive for COVID-19 or recently arrived into Scotland from outside the UK.⁶

³ [Coronavirus \(COVID-19\): economic impact of labour market effects - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2020/06/Coronavirus_COVID-19_economic_impact_of_labour_market_effects.pdf)

⁴ Ibid.

⁵ [Financial vulnerability in Scotland \(data.gov.scot\)](https://data.gov.scot/dataset/financial-vulnerability-in-scotland)

⁶ [Coronavirus \(COVID-19\) support study experiences of and compliance with self-isolation: main report - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2020/06/Coronavirus_COVID-19_support_study_experiences_of_and_compliance_with_self-isolation_main_report.pdf)

	<p>When analysed by levels of area deprivation, those living in the two most deprived SIMD quintiles were more likely to indicate that they had/were struggling financially (21%) compared with those living in the other three deprivation quintiles (8%).</p> <p>Respondents who were index or contact cases living in the two most deprived SIMD quintiles were more than twice as likely to have applied for a self-isolation support grant compared with those living in the other three 19 (13% and 5% respectively).</p> <p>Those with household incomes of less than or equal to £16,900 (17% across all three waves) and £16,901 to £30,700 (13% across all waves) were more likely than those with higher household incomes to have applied for a self-isolation support grant.</p> <p>It is also clear that there are several intersectional challenges with regard to the socio-economic impacts of the pandemic. 4 in 10 households have seen their income reduce as a result of the pandemic⁷ and 51 per cent of adults in the lowest quintile of earnings – less than £14,300 – have a disability⁸. The current support for isolation also mitigates the impact of the modification remaining in place on these groups.</p>
	<p>This assessment concludes that there are some negative impacts on individuals from less affluent socio-economic backgrounds.</p> <p>Assessment findings</p> <p>People on lower incomes or insecure work, without the protections provided by contractual or statutory sick pay, as well as those who have not been able to benefit from economic support packages, stand to be impacted to a greater degree than most by the modification to the compensation duty continuing to remain in place.</p> <p>There are three primary reasons for this:</p> <ul style="list-style-type: none"> • People in these groups tend to have lower levels of income overall, so the consequential impacts of losing income can have a significant impact, both socially and on an individual basis;

⁷ COVID-19 CEYRIS Report 3 (publichealthscotland.scot)

⁸ <https://www.gov.scot/publications/scottish-health-survey-2018-supplementary-tables/>

- People in these groups are more likely, if they are working, to have less savings to cushion the impact of lost income⁹;
- Many low-income jobs are in industries that do not enable people to work from home; and indeed require public interaction, which increases exposure to the virus.

Safeguards and Mitigations

These impacts are mitigated by the self-isolation support and safeguards detailed below.

Expiry date

The date of expiry of the modifications to the 2008 Act is set in the Bill as 31 October 2022 but will be kept under review, and modified if necessary, through regulations made by the Scottish Ministers. As noted above, as part of that review Ministers will consider the following factors:

- whether people are still being asked, under public health guidance, to self-isolate in certain circumstances due to COVID-19;
- whether alternative financial support for people self-isolating is available, either through the existing SISG or another mechanism;
- whether the expiry of the provisions would present a significant resource burden on Health Boards at a scale greater than envisaged during the development of the 2008 Act.

The second of those factors is aimed at ensuring that mitigations remain in place for those negatively impacted by the provisions of this Bill.

Self-isolation support

During the pandemic, self-isolation support has been targeted at those on low incomes. It includes the SISG, which is a one-off £500 payment to those earning the equivalent of the real living wage or less who lose income from self-isolation; the Local Self-Isolation Assistance Service, which is a localised service offering support with food or essential medicines delivery or social support; and the National Assistance Helpline, which anybody with enquiries relating to COVID-19 can call to receive advice and support.

⁹ [Financial vulnerability in Scotland \(data.gov.scot\)](https://data.gov.scot)

	<p>The intention is to keep these self-isolation support measures in place while the modifications to the 2008 Act in this Bill are in force</p> <p>Support for self-isolation, including the SISG, has adapted according to the different challenges and needs thrown up by the pandemic. Levels of compliance with Self-Isolation are routinely monitored and published monthly on the Scottish Government website¹⁰. The Scottish Government will continue to assess the effectiveness of the support in place, including the SISG, and ensure it is available where required to support those on lower incomes.</p>
	<p>Sign off</p> <p>Name: Niamh O' Connor</p> <p>Job title: Deputy Director</p>

¹⁰ COVID-19 support study: experiences of and compliance with self-isolation - gov.scot (www.gov.scot)



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