

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

**Laying number SG/2021/114**

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

### **Overview**

This is the seventh, two-monthly report on the Coronavirus Acts in which the Scottish Government sets out the status and operation of the necessary legislation to respond to the coronavirus (Covid-19) pandemic. It is also the first such report to be produced in the new parliamentary session and the first for which I have had overall responsibility. Continued regular reporting on coronavirus-related legislation will ensure that the Scottish Parliament has oversight of the legislation, allowing it to hold Scottish Ministers to account for their use of the powers available to them.

### **Continued importance of the Coronavirus Acts**

Covid-19 is first and foremost a public health crisis, and the measures to combat it have been necessary to save lives. The restrictions that have been in place since March 2020 have been extensive but necessary in order to limit transmission of the virus as far as possible. The public health measures required to control and limit the spread of the virus will continue to 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.

A positive development has been the rapid roll-out of the vaccination programme and growing evidence concerning the effectiveness of vaccines in preventing serious illness and mortality against existing incumbent variants. However, until more is known about the impact on transmission and on health outcomes of existing vaccines, including against Variants of Concern, public health measures continue to be required.

The Scottish Government continues to place great importance on responding to the coronavirus epidemic, and protecting the health of people living in Scotland.

### **Ministers' Review of the Seventh Report - Statement by Ministers on necessity and status of provisions**

This seventh coronavirus report covers the period from 1 April to 31 May 2021. Scottish Ministers have undertaken a review of the operation of the provisions 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"), and the provisions of the Coronavirus Act 2020 ("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.

## **Next steps**

I 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 seventh report.

**JOHN SWINNEY MSP**

**Deputy First Minister and Cabinet Secretary for Covid Recovery**

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## 1. Introduction

- 1.1. As required by 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.
- 1.2. 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.

## 2. Background

### Reporting requirements

- 2.1. Section 15 of the first Scottish Act and section 12 of the second Scottish Act requires that the Scottish Government reviews the provisions in Part 1 of the Acts every two months, including reporting on their operation and status.
- 2.2. The UK Act does not set out an equivalent statutory requirement for reporting by the Scottish Government or other Devolved Administrations. However, as with the approach taken to reports in the previous parliamentary session, the Scottish Government has included information on the provisions of the UK Act for which the Scottish Parliament gave legislative consent.

## 3. Scottish Government approach to reporting

- 3.1. In continuing to review and develop the Government's approach to reporting, it has been recognised that some measures in the legislation may have greater impact than others on individuals or groups (people with one or more of the protected characteristics listed in the Equality Act 2010), or more generally on equality and human rights. In assessing the equality impact of the measures the Scottish Government has considered the measures in light of the requirements of the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010, the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between people who share a protected characteristic and those who do not, and foster good relations between people who share a protected characteristic and those who do not. Public authorities that are required to publish equality information by 30 April 2021 under [the Scottish specific duties](#) (including a new set of equality outcomes, pay gap information and equal pay statements) must do so.
- 3.2. 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. The Scottish Government consideration of views includes those of the British Institute of Human Rights, the Scottish Human Rights Commission and the Children and Young People's Commissioner Scotland.

- 3.3. The approach to reporting on these impacts will be kept 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 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.
- 4.2. Review of the status, operation and continuing necessity of devolved provisions in the UK Act 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.
- 4.3. The Scottish Government continues 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 8 of this report. In this report information has been included on a total of 100 SSIs – 5 of which are new to this reporting period - 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.
- 5.4. The information from Police Scotland to support the review was published on 29 April 2021, 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 2020 to March 2021, domestic abuse incidents were 3% higher than the equivalent period in 2019-20 (64,140 incidents recorded in 2020-21 and 62,161 incidents in 2019-20). The proportion of April 2020 to March 2021 incidents that include the recording of at least one crime or offence was 40%. 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 1,569 such crimes recorded by the police in April 2020 to March 2021, compared to 1,690 during the equivalent period the preceding year (down 7%).
- 5.6. For the purposes of this reporting period, information on the nature and number of incidents of domestic abuse has not impacted on the outcome of the assessment of whether the provisions remain necessary, nonetheless, the requirement to consider this information on domestic abuse remains a valued part of the reporting process and assists in ensuring that our response to domestic abuse continues to be prioritised. The Scottish Government continues to work with third sector partners to fully understand the impact of Covid-19 and encourage people to access mainstream and specialist support services available to them. To support this, the Scottish Government allocated an additional £5.75 million last year to frontline services so they could respond to an increase in demand from victims of abuse and recently launched our new Delivering Equally Safe Fund (£18m per annum) inviting applications from public bodies and third sector organisations, more information is available at: [Delivering Equally Safe - Inspiring Scotland](#)
- 5.7. It also remains a priority that we take a strong collaborative multi-agency response to our recovery and domestic abuse interventions. We will shortly be taking forward a series of deep dive sessions to develop policy around our domestic abuse risk assessment and interventions for domestic abuse. These sessions will focus on key themes like risk assessment process, information sharing and training.

## **Additional reporting requirements**

- 5.8. 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 2002. The fifth 'Coronavirus (Scotland) (No.2) Act 2020: report on the Scottish Ministers' responses to requests for information under the Freedom of Information (Scotland) Act 2002'<sup>1</sup> was laid in Parliament and published on 9 April 2021. The sixth report will be laid in the Scottish Parliament and published in June.

## **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 may mean 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. Other provisions have been expired as 'spent' as they no longer have any practical effect as their purpose has now been served.
- 6.4. As outlined above, this approach to reporting 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](#).

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<sup>1</sup> [Coronavirus \(Scotland\) \(No.2\) Act 2020: Fifth report on the Scottish Ministers' responses to requests for information under the Freedom of Information \(Scotland\) Act 2002 - gov.scot \(www.gov.scot\)](#)

**Table One – Status and operation of provisions**

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
1.	First Scottish Act	Section 2 and schedule 1 – <b>Eviction from dwelling-houses</b>	See section <a href="#">7.1.1</a>	<b>In operation</b>  Supplementary information provided – see section <a href="#">7.1.1</a> for further information	<b>Commenced and still in force.</b>  No change to status since last reporting period.
2.	First Scottish Act	Section 3 and schedule 2 - <b>Temporary extension of moratoria on diligence</b>	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.	<b>In operation</b>  Extended moratorium is available for individuals to apply. As at 30 April 2021, 2,212 applications had been granted under the new powers.	<b>Commenced and still in force.</b>  No change to status since last reporting period.
3.	First Scottish Act	Section 4 and schedule 3 – <b>Children and vulnerable adults – Part 1 – Children</b>	See section <a href="#">7.1.2</a>	Child protection provisions – <b>in operation</b>  Children’s hearings provisions – <b>in operation</b>	<b>Commenced and still in force:</b> Section 4 and schedule 3, paragraphs 1-5 and 7-10.  <b>Expired:</b>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				Looked after children provisions – <b>in operation</b>  Supplementary information provided - see section <a href="#">7.1.2</a> for further information	Paragraphs 2(2) <sup>2</sup> and 6 <sup>3</sup> of schedule 3.  No change to status since last reporting period.
4.	First Scottish Act	Section 4 and schedule 3 – <b>Children and vulnerable adults – Part 2 – Vulnerable adults</b>	See section <a href="#">7.1.3</a>	<b>Not in operation</b>  Paragraph 11(1) expired on 29 September 2020 and the rest of Paragraph 11 was suspended as from 30 September 2020.	<b>No change to status since last reporting period</b>  Paragraph 11(1) <sup>4</sup> - <b>Expired</b>  Paragraph 11(2) and (3) <sup>5</sup> - <b>Suspended</b>
5.	First Scottish Act	Section 5 and schedule 4, Part 1 - <b>Courts and tribunals: conduct of business by electronic means</b>	These provisions allow documents produced by a court or tribunal, or connected with criminal or civil proceedings, to be signed and	<b>In operation</b>  Remote hearings and electronic processes have increased across all areas of criminal and civil business. The Lord President has stated the use of written submissions, the digital transmission of documents and the	<b>Commenced and still in force</b>  No change to status since last reporting period.

<sup>2</sup> [The Coronavirus \(Scotland\) Acts \(Early Expiry and Suspension of Provisions\) Regulations 2021](#)

<sup>3</sup> [The Coronavirus \(Scotland\) Acts \(Early Expiry of Provisions\) Regulations 2020](#)

<sup>4</sup> [The Coronavirus \(Scotland\) Acts \(Early Expiry of Provisions\) Regulations 2020](#)

<sup>5</sup> [The Coronavirus \(Scotland\) Act 2020 \(Suspension: Adults with Incapacity\) Regulations 2020](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			<p>transmitted electronically, removing the requirement for physical movement and contact. This enables documents to be sent, served and lodged by means of email or other electronic means.</p> <p>The provisions also provide that any participant in either criminal or civil proceedings (judge, clerk, legal representatives, parties to proceedings, accused, convicted persons, appellants and witnesses) can take part in any proceedings by way</p>	<p>use of electronic signatures have enabled swift process changes which are necessary to operate court services efficiently.</p> <p>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. With the introduction of remote jury centres, the normal capacity of 16 trials per day for High Court evidence-led trials had been restored by November 2020 with robust public health measures and guidance in place to protect all court users, including jurors and staff. In addition, Sheriff and Jury trials are now back to pre-COVID levels through the use of remote jury centres, with eighteen Sheriff courts now running jury trials linked to these centres.</p>	

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			of live visual (television) or audio (telephone) link from any location.	<p>On 12 March 2021 a Practice Note was issued by Sheriff Principal Derek Pyle. This set out that from May 2021 the majority of domestic abuse summary trials in Aberdeen Sheriff Court will be conducted virtually, with only the accused person and their solicitor having to be present in the court premises. Sheriff Principal Pyle noted that this initiative would improve the experience for witnesses and ensure the rights of the accused are protected during trials. It will allow up to nine trials to take place each week, which would otherwise not be able to proceed because of COVID-19 restrictions and also offers the opportunity for a national roll-out to provide much needed additional capacity.</p> <p>As of 8 March 2021 over 4,200 custody hearings have also been completed by remote and electronic methods.</p>	

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				<p>Civil business continues to operate virtually and remotely, as has been the case throughout the pandemic - almost all civil court and tribunal business is now conducted online or by telephone with all documents in civil cases lodged electronically; all new summonses signetted electronically and evidential hearings for civil cases being held remotely. In the Sheriff Appeal Court almost all civil hearings are being conducted remotely.</p> <p>From 13 July 2020 the All-Scotland Sheriff Personal Injury Court (ASSPIC) transitioned to a remote basis. The first ASSPIC proof hearings (for hearing evidential cases remotely) commenced in early August and since late November Scotland's Sheriff civil courts are now conducting proofs, debates, evidential and Fatal Accident Inquiry (FAI) hearings virtually using the WebEx video platform. The first</p>	

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				<p>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 and work continues on plans for civil jury trial resumption both in the Court of Session and ASSPIC.</p>	
6.	First Scottish Act	Section 5 and schedule 4, Part 2 - <b>Fiscal fines</b>	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><b>In operation</b></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 particular a fiscal fine, in relation to appropriate cases which would otherwise have proceeded in the Justice of the Peace court.</p>	<p><b>Commenced and still in force.</b></p> <p>No change to status since last reporting period</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				<p>In the period since 7 April 2020 up until 30 April 2021, 14,433 people or approximately 26% of individuals who received a first marking action for a Direct Measure were offered a fiscal fine. Since implementation of the revised scale on 7 April 2020, 451 people or 3% of individuals offered a fiscal fine have been issued a fine amount above the previous scale maximum of £300.</p> <p>For as long as court business is affected by COVID-19, 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>	
7.	First Scottish Act	Section 5 and schedule 4, Part 3 - <b>Cases beginning</b>	The provisions introduce Scotland wide jurisdiction for sheriffs dealing with	<p><b>In operation</b></p> <p>The provisions continue to enable custody proceedings to be heard in</p>	<p><b>Commenced and still in force.</b></p> <p>No change to status since last reporting period</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
		<b>with an appearance from custody</b>	<p>first appearances from police custody. This enables custody proceedings to be heard in any sheriff court in Scotland by a sheriff of any sheriffdom, no matter where the alleged offence took place. The provision also enables the court to hear any continuation of a case, up until a not guilty plea is tendered, if that occurs.</p>	<p>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 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>For as long as 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</p>	

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				minimise unnecessary travel and congregation of 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.	
8.	First Scottish Act	Section 5 and schedule 4, Part 4 - <b>Extension of time limits</b>	See section <a href="#">7.1.4</a>	<b>In operation</b>  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
9.	First Scottish Act	Section 5 and schedule 4, Part 5 - <b>Evidence</b>	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.	<b>In operation</b>  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	<b>Commenced and still in force.</b>  No change to status since last reporting period

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				around self-isolation and coronavirus remain in effect and may be especially important at a time when infection rates are high.	
10.	First Scottish Act	Section 5 and schedule 4, Part 6 - <b>Community orders</b>	<p>Schedule 4, Para 12-13 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>-----</p> <p>Schedule 4, para 12(3) – regulation making power to further extend time limits</p> <p>-----</p> <p>Schedule 4, Para 14 introduce regulation making powers to postpone requirements in CPOs or Drug</p>	<p><b>In operation</b></p> <p>-----</p> <p><b>Not in operation</b></p> <p>-----</p> <p><b>Not in operation</b></p>	<p><b>Commenced and still in force</b></p> <p>-----</p> <p><b>No change since last reporting period</b></p> <p>-----</p> <p><b>No change since last reporting period</b></p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			<p>Treatment and Testing Orders.</p> <p>-----</p> <p>Schedule 4, Para 15 - introduce regulation-making powers for the Scottish Ministers to vary, or revoke requirements in CPOs or Drug Treatment and Testing Orders.</p>	<p>-----</p> <p>Schedule 4, para 15 – power to vary requirements in CPOs or Drug Treatment and Testing Orders - draft regulations to vary unpaid work and other activity requirements as part of a CPO were laid on 29 January 2021, and these were approved by Parliament on 11 March 2021 following scrutiny<sup>6</sup>.</p> <p><a href="#">The Community Orders (Coronavirus) (Scotland) Regulations 2021</a> came into force at 5pm on Monday 15 March and vary the unpaid work or other activity requirements imposed in existing CPOs (except those imposed for domestic abuse, sexual offences, or stalking), reducing these by 35%. This is a necessary and proportionate</p>	<p>-----</p> <p><b>Commenced and in force</b></p> <p>Regulations came into force on 15 March 2021.</p>

<sup>6</sup> [Scottish Parliament Official Report - 11 March 2021](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				action to reduce the overall volume of hours to be delivered and ensure that the community justice system can operate effectively.	
11.	First Scottish Act	Section 5 and schedule 4, Part 7 - <b>Parole Board</b>	The provisions allow parole hearings to continue and avoid postponements. They also provide the power for the Chair of the Parole Board to delegate their functions to another member of the Parole Board, should they become incapacitated for any reason.	<p><b>In operation</b></p> <p>The Parole Board continue to hold hearings almost unaffected. In the period 23 March 2020 to 5 March 2021, over 99% of Tribunals/Oral Hearings scheduled have been heard successfully with only 3 of 1,196 unsuccessful.</p> <p>Given how successfully the Parole Board is operating, the Scottish Government is of the view that provisions which allow cases involving extended sentence prisoners recalled under section 17(3) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 and serving the extension part of their sentence, to be heard at casework meetings by two rather than three members, rather than at an oral</p>	<p><b>Commenced and still in force.</b></p> <p>No change to status since last reporting period</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				<p>hearing, are becoming non-essential and will therefore be expired early in the next reporting period.</p> <p>The Government is also of the view that provisions which allow for the Parole Board to decide cases subject to Part IV of the Parole Board (Scotland) Rules 2001 on paper rather than by conducting a hearing face to face by allowing them to determine that an oral hearing would only take place if it was in the interests of justice to have one, is becoming non-essential given the successful use of the provisions which allow for the use of a live link for oral hearings.</p> <p>The Scottish Government will bring forward regulations to expire the Parole Board provisions in paragraph 18(2), (4) and (5) early in the next reporting period.</p>	

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12.	First Scottish Act	Section 5 and schedule 4, Part 8 - <b>Release of prisoners</b>	See section <a href="#">7.1.5</a>	<b>Not in operation</b>  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
13.	First Scottish Act	Section 5 and schedule 4, Part 9 - <b>Legal Aid</b>	The provisions allow for a reduction of the level of scrutiny required before interim payment may be made, enhanced powers of recovery in the event of overpayments resulting from interim payments, and removal of conditions for counsel to be able to apply for interim payment.	<b>In operation</b> Arrangements were introduced on 12 January 2021 <sup>7</sup> in the Scottish court system to support the current lockdown, as part of the public health response to the COVID-19, which mean there will be a significant reduction in cases proceeding.  Restrictions on travel and to support social distancing also impact on businesses providing legally aided services to clients.  Many providers of legal aid services will continue to experience disruption to cash flow and the provisions will	<b>Commenced and still in force.</b>  No change to status since last reporting period

<sup>7</sup> [New court arrangements from Tuesday 12 January 2021](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				support access to payment prior to a case concluding.	
14.	First Scottish Act	Section 6 and schedule 5 – <b>Alcohol licensing and section 7 and schedule 6, Part 1 - Licensing other than alcohol licensing</b>	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 the relevant authorities. Without legislative change, the impact of the coronavirus outbreak	<p><b>In operation</b></p> <p>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.</p> <p>Examples of licensing authorities continuing to make use of the provisions include holding virtual licence meetings to progress day to day licensing business due to the coronavirus outbreak and physical distancing requirements.</p> <p>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</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			would result in people losing their licences through no fault of their own.	lose licenses through no fault of their own.	
15.	First Scottish Act	Section 7 and schedule 6, Part 2 – <b>Freedom of Information (FOI)</b>	See section <a href="#">7.1.6</a>	Section 7, schedule 6, part 2, paragraph 6 - <b>in operation</b>  Section 7, schedule 6, part 2, paragraph 7 – <b>in operation</b>  Supplementary information provided – see section <a href="#">7.1.6</a> for further information	<b>Commenced and still in force</b>  No change to status since last reporting period
16.	First Scottish Act	Section 7 and schedule 6, Part 3 - <b>Duties in respect of reports and other documents</b>	The provision allows statutory reporting requirements to be postponed, and documents to be made available online instead of being made physically available.	<b>In operation</b>  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 certain that physical access to documents can be provided in all circumstances while the potential for re-imposition of restrictions remains and while there	<b>Commenced and still in force</b>  No change to status since last reporting period

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				<p>is a continuing requirement for people to work from home where possible. 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.</p>	
17.	First Scottish Act	Section 7 and schedule 6, Part 4 - <b>Local Authority meetings</b>	The provisions allow Local Authorities to exclude the public from Local Authority meetings on the basis that the presence of the public constitutes a real and substantial risk to public health relating to coronavirus. In	<p><b>In operation</b></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 it is not appropriate for the Scottish Government to intervene.</p> <p>A briefing prepared by the Improvement Service in October</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			<p>addition, the requirement to provide hard copies or extracts of a document requested by a member of the public in their offices will only be provided if it is reasonably practicable and will no longer be compulsory.</p>	<p>2020 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 the councils that did not have the ability to livestream or allow the public to participate, were exploring options for doing so.</p> <p>At this stage, it is anticipated that these provisions will continue to be necessary until council offices can reopen to the public, without the need for physical distancing, and/or other relevant aspects of Local Authority business resumes.</p>	
18.	First Scottish Act	Section 7 and schedule 6, and Part 5 – <b>Duties under the Public Finance and Accountability (Scotland) Act 2000</b>	The provisions allow Scottish Ministers, by further regulation, to amend the statutory reporting deadlines of Scottish administration annual accounts.	<b>Not in operation</b>  The provisions allow for amendment of the statutory deadlines for annual accounts as set by the Public Finance and Accountability (Scotland) Act 2000. The deadlines for such accounts is 31 December 2021.	<b>Commenced and still in force</b>  No change to status since last reporting period.

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				Although the powers under schedule 6, Part 5 do not currently require to be used, the provisions remain necessary overall as a contingency to ensure 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.	
19.	First Scottish Act	Section 8 and schedule 7, paragraphs 1 to 5 - <b>Social security</b>	See section <a href="#">7.1.7</a>	On <b>re-determinations</b> – Social Security Scotland has extended timescales allowed for re-determinations on 38 occasions, taking an average 38 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 Social Security	Paragraphs 1(b) and 5 are <b>commenced and in force</b>  Paragraphs 1(a), 2, 3 and 4 <b>expired</b> <sup>8</sup> as they are spent provisions.  No change to status since last reporting period.

<sup>8</sup> [The Coronavirus \(Scotland\) Acts \(Early Expiry of Provisions\) Regulations 2020](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				<p>Scotland 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. 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.</p>	
20.	First Scottish Act	Section 8 and schedule 7, paragraphs 6 and 7 - <b>irritancy clauses in commercial leases: non-payment of rent or other sums due</b>	The provision allows for the statutory period for non-eviction of commercial tenants for non-payment of rent to be extended	<p><b>In operation</b></p> <p>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</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			from 14 days to 14 weeks.	prevent evictions for non-payment of rent. Rather landlords and tenants are coming to mutually beneficial agreements on lease restructuring, Rental deferments, holidays and reductions.	
21.	First Scottish Act	Section 8 and schedule 7, paragraphs 8 to 10 - <b>Duration of planning permission</b>	The provision provides that if planning permission or planning permission in principle was to lapse during the emergency period, then the period within which development is to be commenced is extended.	<b>In operation</b>  It would be disproportionate to request authorities or applicants to report on the individual uses of these powers. Whilst some restrictions remain in place, this means that further delays can be expected and 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.	<b>Commenced and still in force</b>  The emergency and extended periods, as amended by SSI 2021/100 <sup>9</sup> under powers conferred by these provisions, mean the emergency period will end on 30 September 2021 and the extended period on 31 March 2022.  No change to status since last reporting period

<sup>9</sup> [The Town and Country Planning \(Emergency Period and Extended Period\) \(Coronavirus\) \(Scotland\) Regulations 2021](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
22.	First Scottish Act	Section 8 and schedule 7, paragraphs 11 to 19 – <b>Land Registration</b>	The provisions enable the digital submission of applications to the property registers and extend the period of protection provided by advance notices.	<p><b>In operation</b></p> <p>The portal for the submission of digital applications continues to operate successfully. The Keeper of the Registers of Scotland will continue to update Parliament on its operation via the Economy Energy and Fair Work Committee.</p> <p>As per her commitment prior to commencement of the Act, and following consultation with the Law Society of Scotland, the Keeper declared the property registers fully open on 1 March 2021, which in turn ended the extended protection for advance notices. The final advance notice provision (para 19) became spent during the reporting period (on 6 April 2021) and will be expired during the next reporting period. Regulations<sup>10</sup> to expire the spent</p>	<p><b>Commenced and still in force</b></p> <p>Paragraphs 11 to 14 and 19. However, while paragraph 19 is still in force in this period, it will be expired on 30 June 2021 by <a href="#">the Coronavirus (Scotland) Act 2020 (Early Expiry of Provisions) Regulations 2021</a></p> <p><b>Expired</b></p> <p>Paragraphs 15 to 18<sup>11</sup> were expired on 30 March 2021.</p>

<sup>10</sup> [The Coronavirus \(Scotland\) Act 2020 \(Early Expiry of Provisions\) Regulations 2021](#)

<sup>11</sup> [Coronavirus \(Scotland\) Acts \(Early Expiry and Suspension of Provisions\) Regulations 2021](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				<p>provision were laid in Parliament on 26 May, following the return of Parliament after the 6 May election. These regulation will come into force and expire the provision on 30 June.</p> <p>As part of the work related to introducing digital submission provisions on a permanent basis, new impact assessments are being prepared across a number of disciplines. The initial findings continue to show from an equalities perspective that the measures do not unlawfully discriminate in any way with respect to any of the protected characteristics (including age, disability, sex, pregnancy and maternity, gender reassignment, sexual orientation, race, religion or belief, marriage or civil partnership), either directly or indirectly. Similarly, the measures have no direct impact on children and young people under the age of 18.</p>	

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
23.	First Scottish Act	Section 8 and schedule 7, paragraphs 20 to 22 - <b>Anatomy Act</b>	The provision extends the three year statutory time limit under the Anatomy Act 1984 for the retention of bodies which have been donated for anatomical research, to that of the life of the emergency legislation. This ensures that during this pandemic, licence holders are not committing an offence by possessing a body beyond the statutory three years from the date of the deceased's death.	<b>Not in operation</b>  As cremations have generally been able to proceed without issue, albeit with further advanced planning, this provision was expired on 30 March 2021 by SSI 2021/93 <sup>12</sup> .	<b>Expired</b>  No change to status since last reporting period.

<sup>12</sup> [The Coronavirus \(Scotland\) Acts \(Early Expiry and Suspension of Provisions\) Regulations 2021](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
24.	First Scottish Act	Section 8 and schedule 7, paragraphs 23 to 30 - <b>Scrutiny of subordinate legislation in urgent cases</b>	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.	<b>Not in operation</b>  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.
25.	First Scottish Act	Section 8 and schedule 7, paragraph 31 – <b>Business Improvement Districts</b>	The provision extends to 31 March 2021 the duration of Business Improvement Districts (BIDs) that were due to end prior to that date, without the legal requirement to hold a ballot.	<b>Not in operation</b>  The provision expressly states that it extends some BIDs to 31 March 2021, and no further. Therefore, it has no legal effect beyond that date and so was not operational in this reporting period.  Regulations <sup>13</sup> to expire the spent provision were laid in Parliament on	<b>Commenced and still in force</b>  While still in force in this period, these provision will be expired on 30 June 2021 by <a href="#">the Coronavirus (Scotland) Act 2020 (Early Expiry of Provisions) Regulations 2021</a>

<sup>13</sup> [The Coronavirus \(Scotland\) Act 2020 \(Early Expiry of Provisions\) Regulations 2021](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				26 May, following the return of Parliament after the 6 May election. These regulation will come into force and expire the provision on 30 June.	
26.	First Scottish Act	Section 8 and schedule 7, paragraphs 32 and 33 - <b>Muirburn</b>	The provisions ended the current Muirburn (management of moorland by burning and cutting) season early and they suspend Muirburn for the period in which the provisions are in force. In ordinary circumstances, Muirburn season runs from 1 October to 15 April inclusive in Scotland.	<b>Not in operation</b>  As provided for by SSI 2020/260 <sup>14</sup> , which came into effect on 1 October 2020, the provision was expired on 30 March 2021 by SSI 2021/93 <sup>15</sup> .	<b>Expired</b>  No change to status since last reporting period.
27.	Second Scottish Act	Section 2, schedule 1, Part 1 –	See section <a href="#">7.2.1</a>	<b>In operation</b>	<b>Commenced and still in force</b>

<sup>14</sup> [The Coronavirus \(Scotland\) Act 2020 \(Suspension: Muirburn\) Regulations 2020](#)

<sup>15</sup> [The Coronavirus \(Scotland\) Acts \(Early Expiry and Suspension of Provisions\) Regulations 2021](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
		<b>Student residential tenancy: termination by tenant</b>		Supplementary information provided at <a href="#">7.2.1</a>	No change to status since last reporting period.
28.	Second Scottish Act	Section 2, schedule 1, Part 2 – <b>Tenancies: pre-action requirements for order for possession or eviction order on ground of rent arrears</b>	See section <a href="#">7.2.2</a>	<b>In operation</b>  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.
29.	Second Scottish Act	Section 2, schedule 1, Part 3- <b>Coronavirus Carer's Allowance Supplement</b>	Paragraph 6 modifies the effect of section 81 of the Social Security (Scotland) Act 2018. This has the effect of adding an additional £230.10 to awards of Carer's Allowance Supplement for the period from 1 April 2020 to 30 September 2020.	<b>In operation</b>  Some backdated payments of Carer's Allowance Supplement made in December 2020 included payments of CCAS.  It is envisaged that further backdated awards including CCAS will be made as part of the next Carer's Allowance Supplement payment cycle, in June 2021, and in subsequent rounds.	<b>Commenced and still in force</b>  No change to status since last reporting period.

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			This addition is known as the Coronavirus Carer's Allowance Supplement ('CCAS').		
30.	Second Scottish Act	Section 2, schedule 1, Part 4 - <b>Social Care Staff Support Fund</b>	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	<b>In operation</b>  The <a href="#">Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020</a> established the Fund. These were amended by SSI 2020/469 <sup>16</sup> , which extended the Fund to cover a small group of social care workers who were shielding, but were not placed on the Coronavirus Job Retention Scheme between March – October 2020. This element of the Fund closed 24 February 2021.	<b>Commenced and still in force</b>  No change to status since last reporting period.

<sup>16</sup> [The Social Care Staff Support Fund \(Coronavirus\) \(Scotland\) Amendment Regulations 2020](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			restricted ability to work due to coronavirus and, as a result of that, have a reduced income and consequently are experiencing, or would experience, financial hardship while the second Scottish Act is in force. Paragraphs 7(3) to 7(7) require the Scottish Ministers to make further provision by regulations about the establishment, maintenance and administration of the fund.		
31.	Second Scottish Act	Section 2, schedule 1, Part 5 – <b>Bankruptcy</b>	The provisions protect those in unsustainable debt by making bankruptcy more	<b>In operation</b>  The provision for increased minimum debt level for creditor petition bankruptcy remains in operation	<b>Commenced and still in force</b>  Paragraphs 8, 10 and 12 of Part 5 of Schedule 1

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			<p>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 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</p>	<p>along with those that enable electronic service of documents and virtual meetings in bankruptcy procedures.</p> <p><b>Not in operation</b></p> <p>The following measures have already been placed on a permanent footing through <a href="#">The Bankruptcy (Miscellaneous Amendments) (Scotland) Regulations 2021</a> which commenced on 29 March 2021. This SSI also expired the equivalent Coronavirus Act provisions from the same date. These measures are:</p> <ul style="list-style-type: none"> <li>• Paragraph 9 – The financial criteria for Minimal Asset Process bankruptcy.</li> <li>• Paragraph 11 – Deadline for sending proposals for debtor contribution orders.</li> </ul>	<p><b>Expired</b></p> <p>Paragraphs 9, 11, 13 and 14 of Part 5 of Schedule 1<sup>17</sup></p>

<sup>17</sup> [Bankruptcy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			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.	<ul style="list-style-type: none"> <li>• Paragraph 13 – Enabling electronic signatures on forms.</li> <li>• Paragraph 14 – Revision to fee structure for bankruptcy debtor applications</li> </ul>	
32.	Second Scottish Act	Section 2, schedule 1, Part 6 – <b>Mental health: named person nomination</b>	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><b>In operation</b></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>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			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).		
33.	Second Scottish Act	Section 2, schedule 1, Part 7 – <b>Care Homes</b>	See section <a href="#">7.2.3</a>	<b>Not in operation</b>  Supplementary information provided – see section <a href="#">7.2.3</a> for further information	<b>Commenced and still in force</b>  No change to status since last reporting period
34.	Second Scottish Act	Section 2, schedule 1, Part 8 – <b>Powers to purchase care home services and care at home providers</b>	See section <a href="#">7.2.4</a>	<b>Not in operation</b>  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

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
35.	Second Scottish Act	Section 2, schedule 1, Part 9 – <b>Care homes: further provisions</b>	See section <a href="#">7.2.5</a>	<b>In operation</b>  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
36.	Second Scottish Act	Section 2, schedule 1, Part 10 – <b>Marriage and civil partnership</b>	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	<b>Not in operation</b>  This provision was suspended on 30 March 2021 by SSI 2021/93. <sup>18</sup> Couples wishing to marry or register a civil partnership are generally able to do so and it is the Scottish Government’s policy to ensure the continued availability of marriage and civil partnership. Further, the right of men and women of marriageable age is protected under Article 12 of the European Convention on Human Rights (ECHR). However, the provision could be revived by regulations should the availability of marriage and civil partnership be further impacted as a consequence of the pandemic.	<b>Suspended</b>  No change to status since last reporting period

<sup>18</sup> [The Coronavirus \(Scotland\) Acts \(Early Expiry and Suspension of Provisions\) Regulations 2021](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			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.		
37.	Second Scottish Act	Section 3, schedule 2, Part 1 – <b>Criminal justice - Criminal proceedings: extension of time limits</b>	Paragraph 1 of schedule 2 makes provision to extend certain statutory time limits contained in the Criminal Procedure (Scotland) Act 1995	<b>In operation</b>  Delays in progressing criminal cases as a result of the impact of coronavirus on the court system (in particular, jury trials) continued to remain a significant issue in this	<b>Commenced and still in force</b>  No change to status since last reporting period

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			relating to criminal proceedings.	<p>period and this provision ensured that there did not need to be a large number of individual hearings to re-adourn cases on a case-by-case basis when time limits on individual adjournments were reached, placing further pressure on the courts at a time when their capacity is limited.</p> <p>Sheriff Summary court business resumed on 19 April with trial courts returning to the pre-January lockdown loadings of three programmed trials and two back-up cases with witnesses on standby.</p>	
38.	Second Scottish Act	Section 3, schedule 2 and Part 1 <b>Criminal justice - Arrangements for the custody of persons detained at police stations</b>	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	<p><b>In operation</b></p> <p>These provisions continue to be necessary to support the operation of vital custody hubs across Scotland.</p> <p>As at the end of April 2021, there are fourteen sites where Prisoner Custody Officers are facilitating the</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			<p>appearances before the court by electronic means, and administrative functions connected with such appearances, to be performed by Prisoner Custody Officers.</p>	<p>movement of detained persons for their remote appearance for court.</p> <p>As of 30 April over 6,900 custody hearings have been completed by remote and electronic methods.</p> <p>Police Scotland, the Scottish Courts and Tribunal Service and Scottish Prison Service are actively considering how these provisions can further extend the use of new custody hubs to reduce the physical appearance of people within the court estate.</p>	
39.	Second Scottish Act	Section 3, schedule 2, Part 1 <b>Criminal justice - Expiry of undertaking under section 25(2)(a) of the Criminal Justice (Scotland) Act 2016</b>	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	<p><b>In operation</b></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</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			<p>by changing the time at which the person who gave it is to appear at court when certain conditions are met.</p>	<p>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>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</p>	

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				during the coronavirus outbreak, particularly in sensitive cases of domestic abuse.	
40.	Second Scottish Act	Section 3, schedule 2, Part 1 – <b>Criminal justice – Fixed Penalty Notices under the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020</b>	Schedule 2, Part 1, paragraph 7 amended regulation 9 of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 so that fixed penalty notices under those regulations could not be given to those aged 16 or 17. As a consequence, a police officer could only issue a Fixed Penalty Notice under	<b>Not in operation</b>  The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 have been revoked. New Regulations <sup>19</sup> in place continue the policy that a police officer <sup>20</sup> can only issue a Fixed Penalty Notice where the officer reasonably believes that the person is aged 18 or over. This provision is therefore no longer necessary and was expired on 30 March 2021 by SSI 2021/93. <sup>21</sup>	<b>Expired</b>  No change to status since last reporting period

<sup>19</sup> [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Regulations 2020](#)

<sup>20</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).

<sup>21</sup> [The Coronavirus \(Scotland\) Acts \(Early Expiry and Suspension of Provisions\) Regulations 2021](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			these regulations where the officer reasonably believed that the person is aged 18 or over.		
41.	Second Scottish Act	Section 3, schedule 2, Part 2 – <b>Proceeds of Crime</b>	Paragraph 8 inserts a new subsection (4A) in section 99 (confiscation orders: postponement) of the Proceeds of Crime Act 2002 ('the 2002 Act'). Subsection (4A) specifies that, for the purposes of section 99(4) of the 2002 Act, "exceptional circumstances" includes the effect (whether direct or indirect) of coronavirus on the proceedings.	<p><b>In operation</b></p> <p>The disruption to usual court business is expected to continue despite the relaxation in Covid restrictions. Moreover, the Lord President issued a new directive taking effect from 12 January 2021 which has again sought to prioritise only High court cases as well as priority and custody Sheriff Court cases. Application of that direction to confiscation in the Sheriff Court has been patchy resulting in a number of the confiscation cases again being administratively adjourned to later dates.</p> <p>These provisions will help to ensure that the confiscation process is not frustrated due to these delays. The</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			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.	provisions also ensure that individuals are not treated unfairly or disproportionately throughout this period if they have been unable to pay a confiscation order for reasons related to coronavirus.	
42.	Second Scottish Act	Section 3, schedule 2, Part 3 –	Where there is provision requiring or permitting a	<b>In operation</b>	<b>Commenced and still in force</b>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
		<b>Intimation, etc. of documents</b>	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	<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 display would be irreconcilable with rules for physical distancing and minimising contact.</p>	No change to status since last reporting period

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			to account for any issues arising from the potential publication of sensitive data on the SCTS website.		
43.	Second Scottish Act	Section 4, schedule 3, Part 1 – <b>Reports, etc. under the Climate Change (Scotland) Act 2009</b>	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	<b>Not in operation</b> (expired).	<b>Expired as a spent provision</b>  No change to status since last reporting period

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			then it must do so as soon as reasonably practicable after that date), and ii) the Scottish Ministers are required to have established – via regulations - a national Nitrogen Balance Sheet (the deadline is 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).		
44.	Second Scottish Act	Section 4, schedule 3, Part 2 – <b>Accounts of registered social landlords</b>	Paragraph 2 of schedule 3 amends section 70 of the Housing (Scotland) Act 2010. It dis-	<b>Not in operation</b>  In operation for the financial year ending 31 March 2020 only.	<b>Expired as a spent provision</b>  No change to status since last reporting period

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			applies the duty, in respect of the financial year ending 31 March 2020, for Registered Social Landlords to submit audited annual accounts to the Scottish Housing Regulator within six months of the end of the period to which they relate. Instead, they must be provided within nine months of the end of the period to which they relate.		
45.	Second Scottish Act	Section 4, schedule 3, Part 3 – <b>Accounts under the Public Finance and Accountability (Scotland) Act 2000</b>	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	<b>In operation</b>	<b>Expired as a spent provision</b>  No change to status since last reporting period.

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			<p>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 are required under section 19 or 20 of that Act.</p>		
46.	Second Scottish Act	Section 4, schedule 3, Part 4 – <b>Housing (Scotland) Act 1987: statement under section 33B</b>	Paragraph 4 of schedule 3 amended section 33B (1) of the Housing (Scotland) Act 1987 ('the 1987 Act') to extend, by six	<p><b>Not in operation</b> (expired)</p> <p>The regulation making powers have not been used since the provisions came into force.</p>	<p><b>Expired as a spent provision</b></p> <p>No change to status since last reporting period</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			<p>months, the deadline for the Scottish Ministers to publish a statement on the circumstances and criteria for exercising their power, in section 33A of the 1987 Act to modify referrals between Scottish Local Authorities on the grounds of local connection. The deadline is now 18 months (by 7 May 2021) rather than 12 months after the coming into force of section 33B (1) (on 7 November 2019.)</p> <p>The provision also gives the Scottish Ministers the power to make regulations to further extend the</p>		

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			period by up to an additional six months (by 7 November 2021), on a one-off basis, should this be necessary.		
47.	Second Scottish Act	Section 5, schedule 4, Part 1 – <b>UEFA European Championship</b>	Part 1 of schedule 4 modifies the UEFA European Championship (Scotland) Act 2020.	<b>Not in operation</b> (expired)	<b>Expired as a spent provision</b>  No change to status since last reporting period
48.	Second Scottish Act	Section 5, schedule 4, Part 2 – <b>Listed buildings and conservation areas: consents</b>	Paragraph 2 amends section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the '1997 Act') to extend the duration of a listed building consent or a conservation area consent that would otherwise lapse	<b>In operation</b>  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 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	<b>Commenced and still in force</b>  The emergency and extended periods, as amended by SSI 2021/100 <sup>22</sup> under powers conferred by these provisions, mean the emergency period will end on 30 September 2021 and the extended period on 31 March 2022.

<sup>22</sup> [The Town and Country Planning \(Emergency Period and Extended Period\) \(Coronavirus\) \(Scotland\) Regulations 2021](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			during the emergency period because works authorised by the consent have not begun.	continued necessity of these provisions.	
49.	Second Scottish Act	Section 5, schedule 4, Part 3 – <b>Registers kept by the Keeper of the Registers of Scotland</b>	<p>Paragraph 3 makes provision for registration or recording in the Register of Inhibitions to proceed on the basis of electronic submission of documents and copies of documents to the Keeper of the Registers.</p> <p>Paragraph 4 makes provision for registration in the Register of Judgments and the issuing of documents to proceed on the</p>	<p><b>In operation</b></p> <p>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.</p> <p>As part of the work related to introducing digital submission provisions on a permanent basis, new impact assessments are being prepared across a number of disciplines. The initial findings continue to show from an equalities perspective that the measures do not</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			basis of electronic submission to and by the Keeper of the Registers of documents and copies of documents.	unlawfully discriminate in any way with respect to any of the protected characteristics (including age, disability, sex, pregnancy and maternity, gender reassignment, sexual orientation, race, religion or belief, marriage or civil partnership), either directly or indirectly. Similarly, the measures have no direct impact on children and young people under the age of 18.	
50.	Second Scottish Act	Section 5, schedule 4, Part 4 – <b>Care services: giving of notices by the Care Inspectorate</b>	See section <a href="#">7.2.8</a>	<b>In operation</b>  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
51.	Second Scottish Act	Section 5, schedule 4, Part 5 – <b>Land and Buildings Transaction Tax: additional amount</b>	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	<b>Not in operation</b> (expired)	<b>Expired as a spent provision</b>  No change to status since last reporting period.

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			Buildings Transaction Tax (LBTT) Additional Dwelling Supplement (ADS) claimed. It provides a power for the Scottish Ministers to amend, by order, the period of 36 months or the period of transactions to which the Act applies, where the Scottish Ministers are satisfied that this is appropriate for a reason related to coronavirus.		
52.	Second Scottish Act	Section 5, schedule 4, Part 6 – <b>Non-Domestic Rates relief</b>	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	<b>Not in operation</b>	<b>Expired as spent provision</b>  No change since last reporting period

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			<p>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 regulations (including a period beginning prior to the regulations being made).</p> <p>Paragraph 8 provides that no Non-Domestic Rates are payable in respect of premises used wholly or mainly for</p>		

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			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.		
53.	Second Scottish Act	Section 5, schedule 4, Part 7 – <b>Execution of documents, etc.</b>	Paragraph 9 of schedule 4 removes the requirement for the physical presence of Scottish notaries public, solicitors and advocates in specific circumstances where an oath, affirmation or declaration is made, or where a	<b>In operation</b>  Personal attendance to execute documents and administer oaths in person etc. remains difficult as a result of physical distancing, and these provisions require to remain in place.	<b>Commenced and still in force</b>  No change to status since last reporting period

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			document is executed, thus allowing for other methods for the duration of the operation of the second Scottish Act.		
54.	Second Scottish Act	Section 5, schedule 4, Part 8 – <b>Freedom of information</b>	Paragraph 12 requires the Scottish Ministers to lay reports before Parliament every two months on their responses to Freedom of Information (FOI) requests during the period that Part 2 of schedule 6 of the first Scottish Act is in force. Paragraph 12(2) sets out the	<b>In operation</b>  Paragraph 12 is in operation and the Scottish Ministers published their fifth report on 9 April and laid before the Parliament on 13 May – covering the period 27 January to 26 March. <sup>23</sup>	<b>Commenced and still in force</b>  No change to status since last reporting period

<sup>23</sup> [Coronavirus \(Scotland\) \(No.2\) Act 2020: Fifth 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/Information/Scotland/Acts/Coronavirus-Scotland-Act-2020)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			information to be included in each report.		
55.	Second Scottish Act	Section 5, schedule 4, Part 9 – <b>Low emission zones</b>	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.	<b>Not in operation</b>  Report <sup>24</sup> was laid in the Scottish Parliament thus meeting the 4 December 2020 deadline.  Spent provision expired on 30 March 2021 by SSI 2021/93 <sup>25</sup>	<b>Expired</b>  No change to status since last reporting period
56.	Second Scottish Act	Section 5, schedule 4, Part 10 – <b>Council Tax: exempt dwellings</b>	Paragraph 14 creates an exemption from paying Council Tax for those properties that were occupied by one of the groups of individuals listed at	<b>In operation</b>  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.	<b>Commenced and still in force</b>  No change to status since last reporting period

<sup>24</sup> [Coronavirus and Progress Toward Establishing Low Emission Zones \(transport.gov.scot\)](https://www.transport.gov.scot)

<sup>25</sup> [The Coronavirus \(Scotland\) Acts \(Early Expiry and Suspension of Provisions\) Regulations 2021](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			paragraphs 10 and 12 of schedule 1 of the Council Tax (Exempt Dwellings) (Scotland) Order 1997, and which are unoccupied on or after 17 March 2020 for a reason relating to coronavirus. This exemption applies until the property is occupied or the second Scottish Act ceases to be in force.	The provision is proportionate and the status of commenced and still in force is appropriate for the time period covered by this report. This measure therefore provides support to those businesses that rely on students renting their properties during term time.	
57.	Second Scottish Act	Section 5, schedule 4, Part 11 – <b>Traffic Regulation</b>	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	<b>Not in operation</b>  Provision expired on 30 March 2021 by SSI 2021/93 <sup>26</sup>	<b>Expired</b>  No change to status since last reporting period

<sup>26</sup> [The Coronavirus \(Scotland\) Acts \(Early Expiry and Suspension of Provisions\) Regulations 2021](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			<p>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.</p> <p>Those roads are existing footpath, bridleway, cycle track or byway open to all vehicles. The maximum duration of TTROs on all other roads is unchanged and remains 18 months (see section 15(1) (b) of the 1984 Act).</p> <p>It also substitutes a reference to the 6 month time limit with a reference to 18 months in section</p>		

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			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.		
58.	Second Scottish Act	Section 5, schedule 4, Part 12 - <b>Restriction on giving grant to businesses connected to tax havens</b>	Schedule 4, Part 12 introduces new conditions in relation to tax havens that must be met before the Scottish Ministers, or any public body administering grants on their behalf, may make a coronavirus-related grant to a company. The Scottish Ministers are required to take steps to satisfy themselves	<p><b>In operation.</b></p> <p>List of tax havens has not been amended since last reporting period.</p> <p>The list now consists of:</p> <ul style="list-style-type: none"> <li>• American Samoa</li> <li>• Anguilla</li> <li>• Dominica</li> <li>• Fiji</li> <li>• Guam</li> <li>• Palau</li> <li>• Panama</li> <li>• Samoa</li> <li>• Trinidad and Tobago</li> <li>• US Virgin Islands</li> </ul>	<p><b>Commenced and still in force.</b></p> <p>No change to status since last reporting period.</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			<p>that the conditions are met.</p> <p>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.</p> <p>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</p>	<ul style="list-style-type: none"> <li>• Vanuatu</li> <li>• Seychelles</li> </ul>	

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			subsidiary based in a tax haven nor party to an arrangement under which any of its profits are subject to the tax regime of a tax haven.		
59.	UK Act	<b>Section 2 - Emergency registration of nurses and other healthcare professionals</b>	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	<p><b>In operation</b></p> <p>Both temporary registers under the UK Act have been in operation continuously since the onset of the pandemic. They are still required to bolster capacity in responding to the resurgence of new variants of the coronavirus while standing up normal services and providing crucial support for the national vaccination programme.</p> <p>The Health and Social Care Directorates Workforce Directorate has worked with the regulators with temporary registers (both under the Act and under their own legislation)</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period.</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			experienced” to an emergency temporary professional register for the duration of a public health emergency as declared by the Secretary of State.	to maximise the uptake of available posts in the Health Boards.	
60.	UK Act	Section 4 and schedule 3 – <b>Emergency arrangements concerning medical practitioners: Scotland</b>	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	<p><b>In operation</b></p> <p>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.</p> <p>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</p>	<p><b>Commenced and still in force</b></p> <p>No change to status since last reporting period</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			(called a “performers list”) before beginning to practice in any GP surgery which provides NHS care in that Health Board’s area.	modify the application process by regulations have not been used.	
61.	UK Act	Section 7 and schedule 6 - <b>Temporary registration of social workers: Scotland</b>	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.	<b>In operation</b>  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. 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 need to recruit additional	<b>Commenced and still in force</b>  No change in status since last reporting period

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				social workers. An increase in demand for all social work services still remains with employers using the register for recruitment therefore the temporary social work register continues to be necessary.	
62.	UK Act	Section 10 and schedule 9 - <b>Temporary modification of mental health legislation</b>	See section <a href="#">7.3.1</a>	<b>Not in operation</b>  Supplementary information provided – see section <a href="#">7.3.1</a> for further information	<b>Not yet commenced</b>  No change to status since last reporting period
63.	UK Act	Section 12 - <b>Indemnity for health services activity: Scotland</b>	The provision grants Scottish Ministers the discretionary power to make indemnity arrangements for any person who is working within the NHS in Scotland, where the indemnity relates to coronavirus.	<b>Not in operation</b>  Scottish Ministers issued a direction <sup>27</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	<b>Commenced and still in force</b>  No change to status since last reporting period.

<sup>27</sup> [Scottish Ministers' indemnity cover direction](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				indemnity arrangements under section 12 of the UK Act have not had to be used by Health Boards in this reporting period. Professional negligence claims relating to coronavirus treatment received during the pandemic may still be under investigation or otherwise pending.	
64.	UK Act	Section 16 – <b>Duty of Local Authority to assess needs: Scotland,</b> and section 17 – <b>section 16: further provision</b>	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><b>Suspended</b> for adult services. Section 16 was suspended in respect of adult services from 30 November by the <a href="#">Coronavirus Act 2020 (Suspension: Adult Social Care) (Scotland) Regulations 2020</a> (SSI 2020/377).</p> <p>No change to status since last reporting period.</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
65.	UK Act	Section 18 and schedule 13 - <b>Registration of deaths and still-births etc.</b>	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.	<b>In operation</b>  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 remaining registration priorities such as birth and marriage/civil partnership.	<b>Commenced and still in force</b>  No change to status since last reporting period
66.	UK Act	Section 20 and schedule 14 – <b>Review of Medical Certificate of Cause of Death and cremation: Scotland</b>	Provisions under Part 1 enable Scottish Ministers to suspend the review of randomly selected Medical Certificates of Cause of Death by the Death Certification Review Service (DCRS) and	<b>Part 1 – Not in operation.</b>  Use of the power that was in operation for part of the first reporting period was revoked by direction <sup>28</sup> on 11 May 2020.  Rather than full suspension, Ministers can choose to reduce the percentage of random reviews to be undertaken,	<b>Commenced and still in force</b>  No change to status since last reporting period

<sup>28</sup> [Coronavirus Act 2020 \(C.7\): direction under paragraph 2\(4\) of Schedule 14](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			<p>pause interested persons reviews under the Certification of Death (Scotland) Act 2011.</p> <p>Provisions under Part 2 give Scottish Ministers the power to dis-apply the offence under section 49 of the Burial and Cremation (Scotland) Act 2016, insofar as it relates to the signing of an application for cremation.</p> <p>It also enables Scottish Ministers to suspend sections 53-55 of the Burial and Cremation (Scotland) Act 2016 and</p>	<p>as a temporary measure. This is by agreement and does not require legislative change. Parliament are notified via a letter to the Health and Sport Committee.</p> <p><b>Part 2 – In operation.</b></p> <p>In the first reporting period, Scottish Ministers made two determinations<sup>29</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.</p>	

<sup>29</sup> [Coronavirus Act 2020 \(C.7\): determination under paragraph 8\(1\) of Schedule 14 \(Cremations\)](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			relevant associated provisions of the Cremation (Scotland) Regulations 2019.		
67.	UK Act	Section 22 - <b>Appointment of temporary Judicial Commissioners</b>	<p>The provision relates to the appointment of Judicial Commissioners under the Investigatory Powers Act 2016. Judicial Commissioners are appointed by the Prime Minister, following consultation with Scottish Ministers.</p> <p>The purpose of this provision is to allow the Secretary of State to make regulations allowing the Investigatory Powers</p>	<p><b>Not in operation</b></p> <p>The <a href="#">Investigatory Powers (Temporary Judicial Commissioners and Modification of Time Limits) Regulations 2020</a> (SI 2020/360), made under the power in this section, which came into force on 27 March 2020, expired on 27 March 2021.</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, and the regulations expired during the sixth reporting period.</p>	<p><b>Suspended</b></p> <p>Section 22 was suspended from 21 April 2021 by the <a href="#">Coronavirus Act 2020 (Suspension: Temporary Judicial Commissioners, Urgent Warrants, and Disposal of Bodies) Regulations 2021</a></p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			Commissioner to appoint temporary commissioners for a 6 month period, renewable to 12 months.	No further regulations are currently planned therefore the provision has been suspended by UK regulations. This will allow the provision to be revived quickly at a future time should it be decided that further regulations are required. The Scottish Ministers agreed to the suspension of these provisions on a UK wide basis.	
68.	UK Act	Section 23 – <b>Time limits in relation to urgent warrants under Investigatory Powers Act</b>	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	<b>Not in operation</b>  The <a href="#">Investigatory Powers (Temporary Judicial Commissioners and Modification of Time Limits) Regulations 2020</a> (SI 2020/360), made under the power in this section, which came into force on 27 March 2020, expired on 27 March 2021.  The appointment of temporary Judicial Commissioners provided the independent Investigatory Powers Commissioner with resilience against the risk that their existing cohort of	<b>Suspended</b>  Section 23 was suspended from 21 April 2021 by the <a href="#">Coronavirus Act 2020 (Suspension: Temporary Judicial Commissioners, Urgent Warrants, and Disposal of Bodies) Regulations 2021</a>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			coronavirus is having, or is likely to have on the capacity of Judicial Commissioners to carry out their functions.	<p>Judicial Commissioners may not be available as a result of the pandemic.</p> <p>No further regulations are currently planned therefore the provision has been suspended by UK regulations. This will allow the provision to be revived quickly at a future time should it be decided that further regulations are required.</p> <p>The Scottish Ministers agreed to the suspension of these provisions on a UK wide basis.</p>	
69.	UK Act	Sections 25 to 29 and schedule 15 – <b>Food supply</b>	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	<p><b>Not in operation</b></p> <p>Industry has been very collaborative in sharing data and information throughout the Covid-19 response and so it has been decided that there is not enough evidence that the provisions remain proportionate to the current risk.</p> <p>The Cabinet Secretary for Rural Economy &amp; Tourism agreed to the</p>	<p><b>Not yet commenced</b></p> <p>To be expired by <a href="#">The Coronavirus Act 2020 (Early Expiry) Regulations 2021</a>, which were laid in draft on 21 April 2021 and are due to come into force in early June.</p> <p>No change to status since last reporting period</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			also provide enforcement powers and impose restrictions on the use of information.	early expiry of these provisions on a UK wide basis. The Scottish Ministers are content that it remains appropriate for these provisions to continue to be held in reserve during this reporting period until the UK wide SI expiring them comes into force.	
70.	UK Act	Sections 34 and 35 - <b>Temporary disapplication of disclosure offences: Scotland and Power to reclassify certain disclosure requests: Scotland</b>	See section <a href="#">7.3.3</a>	<b>Not in operation</b>  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
71.	UK Act	Section 36 - <b>Vaccination and immunisation: Scotland</b>	The provisions amend section 40 of the National Health Service (Scotland) Act 1978.  The requirement in that section, that	<b>In operation</b>  In the first reporting period (on 7 April 2020), Scottish Ministers made directions <sup>30</sup> under section 2(5) of the National Health Service (Scotland) Act 1978, to support vaccination delivery by GP practices where they	<b>Commenced and still in force</b>  No change to status since last reporting period

<sup>30</sup> [Provision of Routine Vaccinations and Immunisations \(Coronavirus Outbreak\) \(Scotland\) Directions 2020](#)

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			vaccinations and immunisations be administered by medical practitioners or persons acting under their direction and control, is removed.	are affected by coronavirus. The provisions have continued to be in operation in this reporting period.  Scottish Ministers have since directed Health Boards to take responsibility for delivering the Influenza (September) and COVID (December) immunisation programmes.	
72.	UK Act	Section 37 and Part 2 of schedule 16 and section 38 and Part 2 of schedule 17 - <b>Temporary closure of educational institutions and childcare premises, and temporary continuity: education, training and childcare</b>	See section <a href="#">7.3.4</a>	<b>In operation</b>  An educational continuity direction was in place during the early part of the reporting period and expired on 2 April. No further directions have been issued.– see <a href="#">7.3.4</a> below.	<b>Commenced and still in force</b>  No change to status since last reporting period
73.	UK Act	Section 46 – <b>NHS pension schemes:</b>	The provision suspends pension scheme rules which	<b>In operation</b>	<b>Commenced and still in force</b>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
		<b>suspension of restrictions on return to work: Scotland</b>	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.	The suspension of pension scheme rules has allowed former NHS staff to return to frontline NHS roles, including supporting the vaccination programme, adding vital capacity to the NHS workforce. The measures allow skilled and experienced staff who have recently retired from the NHS to return to work, and they have also allowed retired staff who have already returned to work to increase their commitments if required, without having their pension benefits suspended.	No change to status since last reporting period
74.	UK Act	Section 49 and schedule 19 – <b>Health Protection Regulations: Scotland</b>	See section <a href="#">7.3.5</a>	<b>In operation</b> 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
75.	UK Act	Section 51 and Part 3 of schedule 21 - <b>Powers relating to potentially infectious persons</b>	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.	<b>Commenced and still in force</b>  No change to status since last reporting period

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				Supplementary information provided – see section <a href="#">7.3.6</a> for further information	
76.	UK Act	Section 52 and Part 3 of schedule 22 - <b>Powers to issue directions relating to events, gatherings and premises</b>	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.  Supplementary information provided – see section <a href="#">7.3.7</a> for further information	<b>Commenced and still in force</b>  No change since last reporting period
77.	UK Act	Section 58 and schedule 28 – <b>Powers in relation to transportation, storage and disposal of dead bodies etc.</b>	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	<b>Not in operation</b>  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	<b>Commenced and still in force</b>  No change since last reporting period

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			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.	<p>Authority area should these emerge at any point.</p> <p>The Scottish Government will continue to liaise with the Society of Local Authority Chief Executives (SOLACE) to consider an appropriate point following the return of the Parliament to consider suspending these powers to mirror the positions in England and Northern Ireland.</p>	
78.	UK Act	Sections 69 and 70 - <b>Postponement of elections: Scotland</b>	The provisions enable Returning Officers and the Presiding Officer to respectively postpone local government by-elections and by-elections for constituency seats to	<p><b>Section 69 – not in operation</b></p> <p>The provision would only have been relevant if a vacancy for a Scottish Parliament constituency seat occurred during the period of the provision being in force.</p> <p><b>Section 70 – in operation</b></p>	<p><b>Expired</b></p> <p>The provisions expired during reporting period seven on 6 May 2021 (date of the Scottish Parliament election)</p>

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
			the Scottish Parliament.	In the seventh reporting period the provision was not used. The provision has been used a total of 20 times to postpone 13 by-elections.	
79.	UK Act	Section 75 – <b>Financial assistance for industry (disapplication of limit under section 8 of the Industrial Development Act 1982)</b>	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.	<b>In operation</b>  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. The Scottish Government continues to consider how devolved elements of this provision might aid industry in ever changing circumstances, including as part of covid recovery. Ministers consider it appropriate that provision which might provide a source of support should not be prematurely expired. It is therefore proportionate and	<b>Commenced and still in force</b>  No change to status since last reporting period

Table Ref.	Act	Provision	Description of provision	Operation of the provision in reporting period seven (ending 31 May 2021)	Status at the end of reporting period seven (31 May 2021) and details of any change of status since last reporting period
				appropriate that this provision remains commenced and still in force, although not operational in this period.	

## **7. Supplementary information**

### **First Scottish Act**

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

##### **Description of Provisions**

- 7.1.1.1 With the exception of anti-social behaviour, criminality, abandonment and vacant property eviction grounds, the provisions, as amended by regulations<sup>31</sup>, increase the notice period across eviction grounds. 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 anti-social behaviour, criminality, abandonment and vacant property 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 4 May 2021, the First-tier Tribunal (Housing and Property Chamber) confirmed that it had received 305 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. In light of the substantial impact anti-social behaviour can have on individuals and communities, Ministers exercised these powers to 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 specific provisions in the emergency legislation.

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<sup>31</sup> [The Coronavirus \(Scotland\) Act 2020 \(Eviction from Dwelling-houses\) \(Notice Periods\) Modification Regulations 2020](#)

- 7.1.1.5 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.
- 7.1.1.6 To further support renters facing eviction during the ongoing pandemic, temporary regulations<sup>32</sup> extending a ban on the enforcement of eviction orders in the private and social rented sectors until 30 September 2021 came into force on 5 March, in areas subject to level 3 and 4 regulations, but are subject to review every three weeks to ensure the ban on evictions remains necessary to protect against the spread of Covid-19.
- 7.1.1.7 The temporary ban will continue to ensure that renters have safe homes during the pandemic – where the prevalence of the virus is at its highest - and will assist in reducing the burden on local authorities, who have a duty to rehouse people made homeless by evictions.

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

- 7.1.1.8 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 December 2020 to February 2021 is up by 0.6 percentage points over the year to 4.4 per cent. In March 2021, Scotland's unemployment claimant count was 212,200, an increase of 99,100 (87.6%) over the year<sup>33</sup>. There has also been a substantial increase in Universal Credit claims in recent months, with around 490,000 people in Scotland now on Universal Credit as at March 2021, almost double the number in March 2020<sup>34</sup>. As we move towards furlough ending there are significant concerns around the potential for further job losses.
- 7.1.1.9 Recently published employment statistics also show the impact over the latest year of employment for young people, with the employment rate for adults aged 16 to 24 falling to 51.9% in the year January to December 2020, the lowest employment rate for this age group since the statistical series began in 2004. This is a drop of 6.0 percentage points compared with the previous year, and the largest decrease seen in a single year since 2004<sup>35</sup>.
- 7.1.1.10 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

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<sup>32</sup> [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Regulations 2020](#)

<sup>33</sup> [Labour market trends: April 2021 - gov.scot \(www.gov.scot\)](#)

<sup>34</sup> [Universal Credit Scotland dashboard 2021 - gov.scot \(www.gov.scot\)](#), April 2021

<sup>35</sup> [Labour Market Statistics - young people \(16-24 years\): Scotland and UK - January 2020 to December 2020 - gov.scot \(www.gov.scot\)](#)

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>36</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>37</sup>. More recently, findings from a Resolution Foundation / Health Foundation survey of UK working-age adults undertaken in September 2020<sup>38</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%) of social renters reporting being behind on all or part of their housing costs, with nearly one-in-eight (12%) of private renters unable to cover their rent in full.

7.1.1.11 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>39</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<sup>40</sup>.

7.1.1.12 Recent published housing advice data from Citizens Advice Scotland (CAS) up to December 2020<sup>41</sup> indicates that advice relating to private sector rented properties as a proportion of all housing advice has increased from 17% in April to December 2019 up to 23% in April to December 2020. In addition, advice regarding private sector arrears as a proportion of all housing arrears advice has increased significantly from 6% in the period April to December 2019, up to 14% in the period April to December 2020. The Citizens Advice Scotland data also indicates a potential increase in issues relating to private rented sector harassment / illegal evictions, with the number of instances of advice provided in this category increasing from 166 in April to December 2019 up to 286 in April to December 2020, an increase of 120 (72%).

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<sup>36</sup> [Office for National Statistics financial resilience analysis](#)

<sup>37</sup> [YouGov survey: A third of renters worry about affording food](#)

<sup>38</sup> [Resolution Foundation: Coping with housing costs, six months on](#)

<sup>39</sup> [Almost third of scots' incomes have reduced in lockdown, with half affected renters worried about paying the bills - JRF](#)

<sup>40</sup> [Poverty in Scotland 2020 | JRF](#)

<sup>41</sup> [CAS Housing Data Q1-3 2020 | Citizens Advice Scotland](#)

- 7.1.1.13 Monthly coronavirus information published by the Scottish Housing Regulator<sup>42</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 subsequently stabilised across most months since then, and has decreased in the most recent month to stand at £160.7m as at end March 2021. The number of notices of proceedings for recovery of possession issued by social landlords for rent arrears increased each month from June 2020, rising from 246 in June 2020 up to 1,514 in November 2020, after which the numbers have decreased in recent months to 699 in January 2021, 875 in February 2021 and 934 in March 2021. The number of court actions initiated for eviction increased from 30 in June 2020 up to 102 in September 2020, after which the number has since fallen to 63 in March 2021, monthly levels which are significantly lower when compared to average monthly figures for previous years.
- 7.1.1.14 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>43</sup> found that, as at June 2020, no sharp increase in rent arrears for private renters was identified, with fewer than one in ten private tenants in Scotland estimated to be in arrears as at June 2020. 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 increased at the start of the pandemic period from 5% in the quarter January to March 2020 up to 9% in April to June. Since then this proportion has remained relatively steady, although it has increased slightly in the latest quarter from 9% in October to December 2020 up to 10% in January to March 2021<sup>44</sup>.
- 7.1.1.15 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 respondents had given a rent discount to their tenants, equating to 11% of properties having had a rent reduction in place. 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 of, 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. The group will increasingly focus on examining potential measures to support

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<sup>42</sup> [Monthly Covid-19 dashboards | Scottish Housing Regulator](#)

<sup>43</sup> [Joseph Rowntree Foundation: Government can provide a housing lifeline in the coming economic storm](#)

<sup>44</sup> [PayProp UK Special Report on Arrears after 12 months of COVID-19, published May 2021](#)

renters as we move towards the temporary measures being removed at the end of September, with a clear focus on tenancy sustainment and preventing homelessness.

- 7.1.1.16 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.
- 7.1.1.17 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.
- 7.1.1.18 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.
- 7.1.1.19 Briefing from the Joseph Rowntree Foundation<sup>45</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.
- 7.1.1.20 The Scottish Government considers that the temporary legislative changes to protect renters continue to have a positive impact across those with protected

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<sup>45</sup> [Joseph Rowntree foundation: A stronger Scottish lifeline in the economic storm](#)

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. In the social rented sector, an estimated 54% of households have a highest income householder who is female, with the equivalent percentage for private renting households being 43%<sup>46</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>47</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>48</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.

- 7.1.1.21 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>49</sup> and 120,000 children living in the private rented sector<sup>50</sup>.
- 7.1.1.22 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.

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

### **Description of provisions**

- 7.1.2.1 **Child protection provisions:** The provisions remove the requirement for a second working day hearing to be held following the issuing of a Child 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, as well as the administration and conduct of children’s hearings and there are extensions to the timescales for

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<sup>46</sup> [Social tenants in Scotland 2017](#)

<sup>47</sup> [Resolution Foundation: Young workers in the coronavirus crisis](#)

<sup>48</sup> [Scottish household survey 2019: annual report](#)

<sup>49</sup> [Social tenants in Scotland 2017](#)

<sup>50</sup> [Scottish household survey 2018: annual report](#)

when certain legal orders must be reviewed and appeals against legal orders must be 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>51</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 in relation to children covers the seventh reporting period 17<sup>th</sup> March 2021 to 11<sup>th</sup> May 2021<sup>52</sup> unless specified otherwise below. Information on where data has been gathered has been included along with any caveats. Data on previous reporting periods can be found in previous reports. A link to the sixth report to Parliament can be found here:

<https://www.gov.scot/publications/coronavirus-acts-sixth-report-scottish-parliament/>

### **Child protection provisions**

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

- 7.1.2.6 Under the first Scottish Act (schedule 3, paragraph 2(3) to (6)), which amends relevant provision of the Children's Hearings (Scotland) Act 2011 ('the 2011 Act'), the second working day children's hearing is not required. Instead a children's hearing to consider grounds for referral will sit on or before the eighth working day. Until the eighth working day, a child or relevant person can make an application for the CPO to be recalled or varied (ordinarily this would have been available until the second working day children's hearing under the 2011 Act) and for two working days following the second working day children's hearing (if the order is continued or varied by that hearing).
- 7.1.2.7 In the seventh reporting period there were 81 CPOs<sup>53</sup>. Across reporting periods 1 – 6 there were 551 CPO's and in total there have been 632 CPO's across all reporting periods. The use of this provision has meant that the

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<sup>51</sup> [Children's Hearings Improvement Partnership: Guidance – Coronavirus \(Scotland\) Act 2020](#)

<sup>52</sup> From REPORT 7 onwards the figures for the previous reports (1 - 6) are no longer included in this text.

<sup>53</sup> This data was provided by SCRA.

Scottish Children's Reporter Administration (SCRA) did not have to hold second working day children's hearings in all these cases.

## **Children's hearings provisions**

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

- 7.1.2.8 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.
- 7.1.2.9 In the seventh reporting period, 35 hearings had fewer than 3 panel members in attendance, and 17 did not have both male and female panel 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 42. This differs from the total making use of the two provisions (35 and 17) because it is possible for both provisions to be used at the same time (for example, a hearing consisting of 2 panel members of the same gender).
- 7.1.2.10 Since the powers came in to force, 213 hearings have had fewer than 3 panel members in place, and 135 did not have both male and female members. As noted above, there will be instances where both provisions were used in relation to the same children's 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 298 hearings (6 from the first reporting period, 32 from the second, 27 from the third, 81 from the fourth, 31 from the fifth, 79 from the sixth and 42 from the seventh).
- 7.1.2.11 The National Convener continues to permit the planned use of the emergency legislation where it is known in advance that it would not be possible to convene a 3-member, mixed gender panel to a particular hearing. Relying on the flexibilities provided by the emergency legislation is deemed preferable to delaying hearings for children, when insufficient panel members are available to form a 3-member mixed-gender hearing in the normal way. Use of the emergency legislation remains, however, a last resort when all other possibilities have been exhausted.

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

- 7.1.2.12 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.

- 7.1.2.13 In the seventh reporting period there were 182 CSOs where orders were extended beyond their expiry date. In reporting periods 1 – 6 there were 4,645 CSO's where orders were extended beyond their expiry date and across all the reporting periods the total is 4,827 CSO's extended beyond the 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. In the seventh reporting period the use of this provision has decreased significantly. Due to the severe restriction in the number of children's hearings which could be held as a result of the current pandemic, this provision has had the effect of extending a number of orders.
- 7.1.2.14 Prioritisation of work has been essential to ensure continuity of protections for children and young people, while 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. Working in concert with families and system partners, SCRA has been increasing the number of hearings as restriction measures were reducing, in line with the multi-agency children's hearings recovery plan published in November 2020, and then further updated in March 2021. This has been by arranging face to face hearings, sometimes with some participants attending remotely ('hybrid hearings'), but also by continuing to maintain the number of virtual hearings.
- 7.1.2.15 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 existing 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.
- 7.1.2.16 This provision has been used extensively, but expiry review hearings have also been taking place during the currency of the Coronavirus (Scotland) Act 2020. In the seventh reporting period there were 873 children's hearings held when orders were due to expire. Across reporting periods 1 - 6 this number was 3,834 children's hearings and the total across all the reporting periods is therefore 4,707 children's hearings.

7.1.2.17 A multi-agency recovery plan was developed by the weekly Children's Hearings Covid Recovery Group and agreed and published by the national strategic Children's Hearings Improvement Partnership in November 2020<sup>54</sup>. The plan models review of all CSOs where the use of the emergency legislation will gradually be reduced and will cease to be used. The progress of this recovery plan has been materially affected by the additional movement restrictions and other virus suppression measures which were in place across Scotland from 26 December 2020 and continued for the majority of the seventh reporting period. 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.

7.1.2.18 The use of this six month period was intended to be reduced incrementally as the SCRA increases its capacity, and its ability to arrange expiry review hearings becomes more practicable. This has been impacted by the restrictions which were in place for the majority of the seventh reporting period. 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 hearings system has to increase beyond the capacity it offered at the beginning of March 2020 prior to the pandemic.

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

7.1.2.19 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.

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

7.1.2.21 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.

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<sup>54</sup> [CHIP Recovery Plan 2020-2021](#)

**Table Two – Interim orders where the provision has been used**

Interim Order Type	Coronavirus Report 7	Reporting Periods 1 – 6	Reporting Periods 1 – 7
	17 <sup>th</sup> March 21 to 11 <sup>th</sup> May 21		TOTALS
ICSO	492	2,599	3,091
IVCSO	151	1,039	1,190
Court ICSO / IVCSO (including following appeal)	322	1,632	1,954
<b>Total</b>	<b>965</b>	<b>5,270</b>	<b>6,235</b>

**Extended timescale of interim orders with authorisation of secure accommodation**

7.1.2.22 In the seventh reporting period, of the 18 interim orders authorising the use of secure accommodation, 17 used the extended timescales available under the provision (94%). In reporting periods 1 – 6 of the 122 interim orders authorising the use of secure accommodation, 71 used the extend timescales which are available under the provision (58%).

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

7.1.2.23 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 Scottish Courts and Tribunals Service (SCTS).

7.1.2.24 The SCRA has supplied data in relation to appeals which were lodged under the provisions of the first Scottish Act after 7<sup>th</sup> April 2020 and were determined before 11th May 2021. 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.

7.1.2.25 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 241 appeals of decisions in relation to a CSO that have been determined in the period 7th April 2020 to 11th May 2021, and the average time taken from the date of the children’s hearing to the determination of the appeal was 47 days.

7.1.2.26 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 191 appeals of ICSOs determined in the period 7th April 2020 to 11th May 2021, and the average time taken from the date of the

children's hearing to the determination of the appeal was 21 days (please note that appeals may not have been lodged until several days after the hearing).

- 7.1.2.27 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 15 appeals of relevant person determinations (made by a children's hearing or a pre-hearing panel) in the period 7th April 2020 to 11<sup>th</sup> May 2021 and the average time taken from the date of the children's hearing to the determination of the appeal was 24 days for the hearing decision and 14 days for the pre-hearing panel decision (please note that appeals may not have been lodged until several days after the hearing).
- 7.1.2.28 Schedule 3, paragraph 7(5) of the first Scottish Act extends the time limits for lodging appeals in relation to a decision affecting a contact direction or permanence order from 21 to 42 days and extends the time for determination of the appeal from 3 to 7 days. The SCRA recorded no appeals of this type in the period 7th April 2020 to 11th May 2021.
- 7.1.2.29 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 has been one appeal made against decisions to which the extended time limit applies in the period 7th April 2020 to 11th May 2021.

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

- 7.1.2.30 Schedule 3, paragraph 8 of the first Scottish Act covers attendance of persons other than children or relevant persons at children's hearings and facilitates the remote attendance of these other persons. There is existing provision in rule 19 of the children's hearings procedural rules to enable attendance by other means which this builds on.
- 7.1.2.31 Many of the 18,424 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 July 2020, SCRA 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 markedly increased. Between 26 December 2020 and 11 May 2021, SCRA operated a model mostly reliant on virtual / hybrid children's hearings as a result of more extensive restrictions. If a child or family require to attend in person to participate effectively in their children's hearing then a physical hearing was arranged. This approach will alter as restrictions across Scotland are lifted.

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

7.1.2.32 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 18,424 children's hearings held over the reporting periods.

## **Looked after children provisions**

7.1.2.33 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.

7.1.2.34 Across Scotland, 23 Local Authorities have been able to provide data on the use of these provisions from 17 March to 11 May 2021. Use of the provisions has been relatively low, and has 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.

7.1.2.35 The provisions have been used to allow more than three children to be placed with a foster carer eleven times during the reporting period. There has been one instance 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. No kinship placement has been extended in an emergency, and the timeframes for kinship reviews have not been extended during the seventh reporting period.

7.1.2.36 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 as restrictions are eased and which could place additional pressure on foster or kinship placements. Local Authorities have reported that the provisions provide a vital safety net, ensuring that decisions can be taken in the best interests of the child, and that despite the pandemic placing more pressure on social work resources, keeping the provisions will help to ensure that the current level of care and support can be maintained.

7.1.2.37 Responses have included comments which suggest local authorities recognise the potential longer term impacts on families economically and emotionally; and that they are planning for increased demands on their services as restrictions ease and social interactions increase.

7.1.2.38 The provisions also ensure that Local Authorities have the flexibility to ensure children and young people can be kept within their own family networks wherever possible, and to ensure that sisters and brothers stay together, in line with the recommendations of the Independent Care Review. Where

necessary the provisions have given additional time to ensure that the views of both children and parents can be taken into account in decision making.

### **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 updated Health Protection Scotland-screened risk 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. A Children's Rights and Wellbeing Impact Assessment for the children's provisions can be found here: [CRWIA - Coronavirus Scotland Act 2020 - Children's Provisions](#)
- 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. Significant new resources have been made available to support the delivery of the recovery plan.
- 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 will continue to be necessary over the next two month period.

## **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**

- 7.1.3.2 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 September 2020.

## 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 3-4 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 meetings are publically available<sup>55</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.
- 7.1.3.8 There remain challenges in obtaining medical and mental health officer reports to support adults with incapacity applications and renewals, however these are not pandemic related.
- 7.1.3.9 The stakeholder group continues to monitor the situation and there is not enough information at present to recommend reinstatement of the temporary provisions. In the most recent stakeholder group meeting on 26 April the group unanimously agreed that the temporary provisions should expire in September 2021.

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<sup>55</sup> [Adults with Incapacity Emergency Legislation Commencement Consideration Group](#)

## **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 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 and the move towards remote jury centres is assisting 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.

- 7.1.4.6 On 11 January 2021, the Lord President announced that during the lockdown period the criminal courts will focus on the most serious trials and the majority of summary trials in the Sheriff Court and Justice of the Peace Court will be adjourned. This reduced the overall number of criminal trials taking place during lockdown by up to 75%. On 19 April, Sheriff Court summary business resumed, with trial courts returning to the pre-January lockdown loadings of three programmed trials and two back-up cases with witnesses on standby.
- 7.1.4.7 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.
- 7.1.4.8 The Justice Board for Scotland, which brings together senior leaders from Scotland's main national justice system organisations, has established a Criminal Justice Board to co-ordinate 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.
- 7.1.4.9 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 person's 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.

## **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 provisions have not been used in the reporting period.

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

- 7.1.5.3 It might become necessary to utilise these powers in the future to maintain safe and effective operations of prisons, and protect the health of prison staff and prisoners. The Scottish Government will therefore continue to engage with the Scottish Prison Service (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.
- 7.1.5.4 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.
- 7.1.5.5 The first and second two-monthly reports on the Coronavirus Acts 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.

## **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 seventh 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 seventh 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.

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

### **Description of Provision**

- 7.1.7.1 Paragraphs 1(a), 2, 3 and 4 of schedule 7 relaxed timescales which apply to clients seeking 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. They also modified timescales for making applications where these have not been able to be met directly as a result of

coronavirus. These provisions are now expired. The provisions which remain in force are paragraphs 1(b) and 5 of schedule 7, which relax the timescales which apply for Social Security Scotland making re-determinations.

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

- 7.1.7.2 During the period in which provisions have been in force, Social Security Scotland has extended the timescales for a re-determination on 38 occasions, taking an average 38 days to complete these re-determinations. This represents 1.8% of the re-determinations received. In addition, a small number of appeals have been accepted by the Tribunal, citing COVID-19 as a factor for their late appeal.

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

- 7.1.7.3 The key factor in the considering the continuing necessity of these provisions is the disruption created by coronavirus. Where this is likely to have an impact on people's ability to request for a redetermination or appeal, including to gather and receive supporting information, 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 continue to be necessary for the Agency to be able to manage redeterminations with reduced capacity as a result of coronavirus and to allow clients additional time to provide information required for a redetermination to be made. They have therefore been 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 38 occasions, taking an average 38 days to complete these re-determinations. This represents 1.8% of the re-determinations received. 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 their 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 provided some benefit to clients, in helping them access their rights despite the impact of coronavirus. They have also helped to avoid appeals by allowing more time to make the re-determination. 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.
- 7.1.7.8 Social Security Scotland is of the view that there remains a need to have these extensions in place until 30 September as a contingency against further disruption to services and clients' circumstances, for example, if there was a resurgence of the virus.

## **Second Scottish Act**

### **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). This means:
- Students who have entered into a student residential tenancy before 27 May 2020 and have occupied the property, can give seven days' notice to their accommodation provider.
  - Students who have already entered into a student residential tenancy before 27 May 2020 but have not yet occupied the property, can give 28 days' notice to their accommodation provider.
  - Students who enter into a student residential tenancy after 27 May 2020 can give 28 days' notice to their accommodation provider.
- 7.2.1.2 At this period in the academic year, most students, therefore, can utilise the 28 day notice period. Students can only terminate tenancies for a reason relating to coronavirus.

#### **Operation of the provision in Reporting Period**

- 7.2.1.3 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.

- 7.2.1.4 The 28 day notice period has given students looking to find suitable accommodation in the current 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.

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

- 7.2.1.5 In approving the [Coronavirus \(Scotland\) Acts \(Amendment of Expiry Dates\) Regulations 2021](#), the Scottish Parliament agreed to extend the provision in relation to student tenancies in halls of residence and PBSA beyond 31 March 2021.
- 7.2.1.6 During the seventh reporting period, 1 April to 31 May 2021, the ‘stay local’ rule was lifted, with a more significant reopening of the economy and a relaxing of travel restrictions taking place later in the month. The Coronavirus (COVID-19): universities, colleges and student accommodation providers guidance<sup>56</sup> was, therefore, updated but still applicable during this period.
- 7.2.1.7 Despite progress on reducing infection rates and the vaccine roll out, we would still want students to be able to utilise these enhanced rights, should local restrictions be necessary over the summer. As a result, these provisions remain necessary to ensure that students prevented from taking up their accommodation as planned, were not held liable to pay for accommodation they were unable to use.
- 7.2.1.8 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 continued availability of the notice to leave period ensured students were not disadvantaged as a result of coronavirus.
- 7.2.1.9 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 continued to strike an appropriate balance between the rights of student accommodation providers and the rights of the students during the pandemic.

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<sup>56</sup> [Coronavirus \(COVID-19\): universities, colleges and student accommodation providers](#)

- 7.2.1.10 The Scottish Government will continue to review the operation of these provisions, particularly in light of ‘Coronavirus (COVID-19): timetable for easing restrictions’ published in March 2021<sup>57</sup>.

## **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](#) (SSI 2020/304) came into force on 30 September 2020.

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

- 7.2.2.3 Schedule 1 of the first Scottish Act makes all 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

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<sup>57</sup> [Coronavirus \(COVID-19\): timetable for easing restrictions](#)

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. The Scottish Government also considers 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.

## **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 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 to make, the Care Homes Emergency Intervention Orders (Coronavirus) (Scotland) Regulations 2020 (SSI 2020/201) <sup>58</sup> which 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 seventh reporting period.

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

- 7.2.3.15 The availability of these powers enables Health Boards to act swiftly to make specific asks of care home providers where they believe there is a material risk to health within the care home due to coronavirus. Where necessary and following approval of the court, it allows Health Boards to take steps to ensure that any actions are carried out. Similarly the powers enable 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. If the powers were removed too soon while there are still concerns about the virus and its impact on care homes, there is a risk that any necessary swift action and additional oversight will not be forthcoming.

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<sup>58</sup> [The Care Homes Emergency Intervention Orders \(Coronavirus\) \(Scotland\) Regulations 2020](#)

- 7.2.3.16 Care homes include persons of a variety of protected characteristics, in particular disabled persons and persons of varied ages, with the protected characteristics of age and disability being especially relevant to residents. The legislation builds on established powers and the availability of the powers 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 they consider it is justified necessary, in a sector which is more vulnerable to the virus.
- 7.2.3.17 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.
- 7.2.3.18 The second wave of the virus, fuelled by the emergence of a new strain, had a significant impact on Scotland. Cases rose dramatically in Scotland across December (peaking at 2,622 new reported cases in the Scottish population on December 31). This rise in community prevalence was mirrored in the care home sector which saw a steep increases in cases and deaths. Where care homes had outbreaks, these were significant and often overwhelming the resources of the care home who required mutual aid and support from NHS and Local Authority partners.
- 7.2.3.19 We are continuing to see outbreaks in care homes, but at lower rates than seen before. As at 5 May 2021, 30 (3%) of adult care homes had a current case of suspected COVID-19.
- 7.2.3.20 Good progress has been made in rolling out the vaccination programme to the care home sector, with 92.3% of adult care home residents and 96.1% of staff having received their second dose of the vaccine as of 12 May 2021. This will likely protect the majority of residents from getting seriously ill with the virus. However, the evolving nature of the pandemic, particularly the potential threat posed by variants of concern, mean circumstances can and may change quickly. Until more is known about the impact on transmission and on health outcomes of existing vaccines, including against variants of concern, public health measures continue to be required, although they do continue to be reviewed to take account of new information.
- 7.2.3.21 While the above statements provide justification for having the powers in place during this period, the powers have not been used. 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. 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.
- 7.2.3.22 While the threat of the virus and emerging variants still remain, it is the opinion of the Scottish Government that these powers are still necessary and proportionate.

## **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 7.2.3.22 above, the following factors were also taken into consideration in the review.
- 7.2.4.11 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.
- 7.2.4.12 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.
- 7.2.4.13 Levels of confidence in care home preparedness have improved significantly over the past 12 months, however care homes have been seen to be significantly overwhelmed by COVID during outbreaks. As described above in sections 7.2.3.20, the evolving nature of the pandemic, particularly the potential threat posed by variants of concern, mean circumstances can and may change quickly.
- 7.2.4.14 It remains a possibility that some homes will need an intervention. Pending more evidence on the efficacy and longevity of the vaccine, it would be prudent for the emergency powers to stay in place as they provide a safety net and assurance. Therefore, it is the opinion of the Scottish Government that these powers are still necessary and proportionate.

## **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.

## **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 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 In implementing this provision, the Care Inspectorate has had to develop and implement new processes to comply with the requirements. There have been clear advantages in taking a more targeted, intelligence-led and risk-based approach, working collaboratively with Health and Social Care Partnerships (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

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<sup>59</sup> [Reports to the Scottish Parliament on Care Inspectorate inspections](#)

<sup>60</sup> [Care Inspectorate: Inspection during COVID-19](#)

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, all be it that full and complete inspection reports are now being produced in around the same time as it takes to publish the fortnightly reports. There has also been recent progress with the programme of vaccination in care homes, the reopening of visiting, and decrease in the number of deaths related to COVID-19 being reported.
- 7.2.5.9 Nevertheless, there continues to be an increased level of interest and scrutiny of care home issues and the potential threat from the virus and variant strains remains. The operation of the provision in the reporting period was proportionate, and the status of the provisions is appropriate. Among other factors, it may be that the roll out of the vaccine in care homes, and across Scotland, leads to a reduction in the number of care home deaths and the serious threat posed from the virus to care home residents. However, more evidence in the efficacy of the vaccine is needed over time as part of a wider consideration into whether these reporting duties remain necessary and proportionate.

### **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.
- 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>.

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<sup>61</sup> [Coronavirus \(COVID-19\): adult care homes - additional data](#)

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

- 7.2.5.12 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 Scottish Government's and Care Inspectorate's view is that these notifications of death are 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 and new variants remains. The operation of the provision has been proportionate and the status is appropriate. Among other factors, as noted above, it may be that the roll out of the vaccine in care homes, and across Scotland, leads to a reduction in the number of care home deaths and the serious threat posed from the virus to care home residents. However, more evidence in the efficacy of the vaccine is needed over time as part of a wider consideration into whether these reporting duties remain necessary and proportionate.
- 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 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.

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

### **Description of Provision**

7.2.6.1 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.

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

- 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.

7.2.6.3 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**

7.2.6.4 As of 13 May 2021 this power has been used by the Care Inspectorate in relation to 2,858 matters for the issuing of notices relating to registration, variation of conditions of registration, and enforcement action.

7.2.6.5 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).

7.2.6.6 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

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<sup>62</sup> [Care Inspectorate: Equalities report 2019-21](#)

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**

- 7.2.6.7 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.
- 7.2.6.8 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. It seeks to support emergency action required by ensuring notices are delivered and received quickly and safely. The availability of these emergency powers better ensures oversight without delay in a sector which is more vulnerable to the virus. As the take up of vaccine increases across care homes and Scotland more widely, this will form an important consideration in helping us to evaluate whether provisions remain necessary and proportionate. Pending more evidence on the efficacy and longevity of the vaccine, it is prudent for the emergency powers to stay in place and this will continue to be kept under review.
- 7.2.6.9 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. Care homes include persons of protected characteristics, in particular disabled persons and persons of varied ages, with older person making make up the majority of residents. See additional information regarding this at section 7.2.5.17 and 7.2.5.18 above.
- 7.2.6.10 The impact of the operation of this provision will continue to be reviewed.

## **UK Act**

### **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, and psychiatric services for people with more severe mental ill health. 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 given the current climate while recovery is underway.
- 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 Throughout the last year, we have engaged with key stakeholders through the Scottish Government's Short Life Mental Health Legislation Commencement Consideration to monitor and review the need to commence the temporary provisions on an ongoing basis. Meetings of the group are held every 3-4 weeks with group members providing real-time feedback on how well mental health services are able to operate mental health legislation from their perspectives across the system.
- 7.3.1.12 They report that that that this remains a challenging period however the current levels of operation of the Adults with Incapacity and Mental Health Acts merits a continued cautious approach in respect of the emergency provisions. There has been an increased 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. They view the temporary provisions as a safety net only to be used as a last resort. At the most recent meeting of the group, they agreed there remains no need to commence the provisions but that it would be premature to take away that safety net at this particular moment while

recovery is underway. It should also be noted that these temporary provisions, if commenced, are to be permissive rather than obligatory.

- 7.3.1.13 Members of the Short Life Mental Health Legislation Commencement Consideration Group have also appeared before the Equality and Human Rights Committee. During their evidence session they were clear that although the pressure on workloads remains challenging we are not at the stage where these temporary provisions should commence however it remains necessary to have these provisions available.
- 7.3.1.14 The Scottish Government has been and 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.

## **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 Scottish Ministers 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 and young persons. This will retain the ability for the powers to be used for children's and young person carer 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 November 2020. An Equality Impact Assessment<sup>63</sup> was completed for the regulations and revised guidance<sup>64</sup> has been issued.

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<sup>63</sup> [Equality Impact Assessment - The Coronavirus Act 2020 \(Suspension: Adult Social Care\) \(Scotland\) Regulations 2020](#)

<sup>64</sup> [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 2020](#)

- 7.3.2.4 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.
- 7.3.2.5 To introduce the powers, Scottish Ministers made the Coronavirus Act 2020 (Commencement No. 1) (Scotland) Regulations 2020 (SSI 2020/121)<sup>65</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.
- 7.3.2.6 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.
- 7.3.2.7 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 in respect of children's services and the justification for retaining them in relation to children's services. 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 most recent survey covering the period 9 March – 3 May found that only two Local Authorities reported they had used the powers. The Local Authorities which said they were using the powers during this period were: East Renfrewshire and South Lanarkshire. This is the same as the previous monitoring period.
- 7.3.2.8 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.
- 7.3.2.9 Local Authorities that used the powers were asked about their role in managing their response to Covid-19. Responses included that the assumption of normal duties could not have been undertaken due to staffing issues.
- 7.3.2.10 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

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<sup>65</sup> [The Coronavirus Act 2020 \(Commencement No. 1\) \(Scotland\) Regulations 2020](#)

that a harm matrix approach continued to be employed. It was noted that a social work duty system was still in place to triage and assess enquiries and weekly Adult and Child Protection Committees has oversight of data, enquiries and investigations. Enquiries are screened and if support is needed it can be escalated without delay.

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

- 7.3.2.11 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 states: “all assessments other than full should be regarded as temporary. These should be reviewed as well as possible at regular intervals”.
- 7.3.2.12 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.
- 7.3.2.13 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.
- 7.3.2.14 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.
- 7.3.2.15 In relation to children’s services, child protection activity has been monitored on a weekly basis since early into the first period of lockdown. Following the easing of the second lockdown there has been an increase in child protection registrations. This was widely expected by senior professionals as contact with vulnerable children increased after lockdown. The Scottish Government will continue to monitor the rate of registrations as lockdown is eased.
- 7.3.2.16 Social Work Scotland and the Office of the Chief Social Work Adviser believe there is a potential for demand in children’s services to continue to be high as lockdown is eased. Any delays in response times could leave children unprotected or families without prompt support. The Scottish Government 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.

## **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 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.

## **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 would have 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 were in use during this reporting period with Educational Continuity Direction expiring at 23:59 on 2 April 2021. No further directions have been issued following the full reopening of schools and early years and childcare settings from 12 April 2021.

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

- 7.3.4.4 The educational continuity direction used during this reporting period was given on 11 March and was in force until 23.59 on 2 April. It was put in place following statements by the First Minister during February and March announcing a phased reopening of primary and secondary schools and early learning and childcare settings, continued in-person learning for vulnerable children and the children of key workers and for secondary school pupils high quality remote learning and some in-school teaching. It supported this position and provided a legal basis for key aspects of phase 2 of the reopening of schools.
- 7.3.4.5 The Education Recovery Group and the Advisory Sub-Group on Education and Children's Issues have collectively provided the broad based overview of the effect of the current guidance and the direction, taking consideration of views from across the schools sector. The most recent guidance on reducing risks in schools<sup>66</sup> was published on 24 March 2021 (updated 19 April 2021). The accompanying impact assessment in relation to protected characteristics, children's rights and wellbeing, the Fairer Scotland Duty and island communities was published on the same date. The Impact Assessment for

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<sup>66</sup> [Coronavirus \(COVID-19\): guidance on reducing the risks in schools - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/consultation-papers/coronavirus-guidance-reducing-risks-schools/)

'The reopening of childcare' was published on 30 September 2020 and an Impact Assessment for the temporary restrictions on early learning and childcare in 2021 was published on 19 February.<sup>67</sup>

- 7.3.4.6 It is considered appropriate that these powers remain in force, that they are necessary to support actions in society to prevent the spread of the virus, and to ensure that educational provision is maintained for children and young people as the easing of restrictions progresses. While the transmission of the virus has reduced significantly further educational continuity or closure directions may be necessary in future periods.
- 7.3.4.7 Ministers' powers to issue directions to educational establishments also include further and higher education institutions. To date, the powers have not been exercised in relation to FE or HE bodies. Nevertheless, it is considered appropriate for the powers to remain in force in full. It may become necessary in due course to issue educational continuity directions to those sectors, particularly as we move out of lockdown and face to face teaching resumes for the majority of students. Continuity directions would allow Ministers to require institutions to take appropriate health protection measures, possibly including testing facilities for staff and students. Ministers will be aware that these powers would only be used as a last resort in the FE/HE sectors. The Scottish Government's position remains that it is working closely with universities, colleges and other organisations within the sector to mitigate any impacts on the further and higher education system arising from the pandemic while preventing the spread of the virus.

## **Section 49 and schedule 19 - Health Protection Regulations: Scotland**

### **Description of Provision**

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

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

- 7.3.5.2 Section 49 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". While the full chronology of these regulations up to 24 March 2021 (SSI 2021/168<sup>68</sup>) can be viewed in the sixth two-monthly report to Parliament<sup>69</sup>, the regulations made using these powers in this seventh reporting period are as follows:

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<sup>67</sup> [Coronavirus \(COVID-19\): re-opening childcare - impact assessment](#)

<sup>68</sup> [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 18\) Amendment Regulations 2021](#)

<sup>69</sup> [Coronavirus Acts: Sixth Report to Scottish Parliament](#)

- **1 April 2021:** [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 19\) Regulations 2021](#) (SSI 2021/180) were made. These Regulations removed the stay at home requirement from Level 4. They permitted contact sport for 12-17 year olds and allowed hairdressers and barbers to reopen for premises-based services by appointment only. They expanded the list of essential retail and allowed all retailers to operate click and collect. The Regulations adjusted polling station rules to make face coverings a requirement and excluded polling stations from collection of visitor information rules.
- **15 April 2021:** [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 20\) Regulations 2021](#) (SSI 2021/186) were made. These Regulations adjusted the socialising rules in Level 3 and 4. They also made adjustments to the travel restrictions.
- **22 April 2021:** [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 21\) Regulations 2021](#) (SSI 2021/193) were made. These Regulations moved all of Scotland to Level 3. These Regulations removed curfews on outdoor hospitality at all levels and increased socialising limits in Level 0, 1 and 2. The Regulations permit additional leisure and event premises to reopen and allow mobile close contact services to resume at Level 2 and 3. The Regulations adjust the hospitality curfew a changes curfews on indoor hospitality at Level 2 and 3 and allow drive-in events to resume at Level 3. The Regulations also allow travel between Jersey, Guernsey, England, Wales and Northern Ireland and Scotland and made some amendments to Level 4 restrictions.
- **4 May 2021:** [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 22\) Regulations 2021](#) (SSI 2021/202) were made. These Regulations permit casinos to open in Level 2, subject to restrictions on operating hours.
- **14 May 2021:** [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 23\) Regulations 2021](#) (SSI 2021/209) were made. The Regulations adjust the Levels allocation across Scotland as a result of the most recent data. These Regulations also make some adjustments in relation to powers of entry, hotels and to the requirements placed on those responsible for businesses, services and places of worship. The Regulations permit snooker & pool halls and bowling alleys to reopen in Level 2 and allow increased in-home socialising in Level 2 areas. The Regulations futureproof the travel restrictions in place for Level 3 and 4 by reintroducing a 5 mile limit for outdoor exercise and recreation. Finally, the Regulations adjust the restrictions relating to capacity limits on stadia and live events and for public processions in some levels.
- **21 May 2021:** [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 24\) Regulations 2021](#) (SSI 2021/211) were made. The Regulations adjust the Levels allocation

across Scotland as a result of the most recent data and add some areas of England to the list of places to which the CTA travel restrictions apply.

- **27 May 2021:** [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Amendment \(No. 25\) Regulations 2021](#) (SSI 2021/224) were made. The Regulations adjust the face coverings requirements to allow a covering to be removed when receiving a close contact service in the nose or mouth area. The Regulations also permit indoor organised activity for adults in Level 2 areas.

- 7.3.5.3 Associated guidance has been regularly updated. Evidence supporting the decisions applying the Strategic Framework levels across different parts of Scotland each week since they were first introduced on 2 November 2020 is set out in the series [Covid Protection Levels; Reviews and Evidence](#). This includes a series of State of the Epidemic reports which summarise the latest indicators on case numbers and testing, as well as evidence on prevalence of the new variant of concern (VOC).
- 7.3.5.4 On 11 December 2020 the Scottish Government published [Assessing the Four Harms of the Crisis](#). This document describes how the Four Harms approach works in practice and presents evidence to illustrate its application to decisions relevant to Scotland's Strategic Framework.
- 7.3.5.5 On 23 February 2021 the Scottish Government published an updated version of COVID-19 Scotland's Strategic Framework which describes how we will prioritise moving out of lockdown.
- 7.3.5.6 Revised [Local Protection Levels](#) were published on 13 April 2021. These are subject to ongoing review as necessary.
- 7.3.5.7 In addition, the [Modelling the Epidemic](#) series provides outputs from modelling of the spread and level of the epidemic by Scottish Government, as well as results by modelling groups feeding into the SAGE consensus. These help ensure a robust, peer-tested and up to date picture informs decisions.
- 7.3.5.8 Public Health Scotland ("PHS") also publish a [Covid19 weekly statistical report](#). This presents key information on the rollout of the vaccine, volumes of tests and data on covid transmissions, prevalence of the new variant and case numbers, plus links to a range of research resources and tools.
- 7.3.5.9 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>70</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.

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<sup>70</sup> [Police Scotland: Enforcement and Response Data](#)

- 7.3.5.10 In due course and as standard practice, the Official Statistics produced by the Scottish Government on Recorded Crime<sup>71</sup> and Criminal Proceedings<sup>72</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. The Recorded Crime in Scotland, 2019-20 publication included a small number of crimes recorded under the legislation which was introduced towards the end of the reporting, in March 2020<sup>71</sup>. Further updates on developments with these Official Statistics can be received by signing up to the SCOTSTAT network<sup>73</sup>.
- 7.3.5.11 Information is now available on charges reported to COPFS under the various Health Protection Regulations made under schedule 19. Most charges were related to regulation 5(1), for failure to comply with the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020.
- 7.3.5.12 Table Three below provides additional information on the number of charges reported up to 30 April 2021 and the initial decision on how these charges will proceed.

**Table Three: Action taken as a result of charges reported to COPFS under the various Health Protection Regulations – up to 30 April 2021**

Action taken	Number of charges reported	% of total
<b>Solemn</b>	<b>101</b>	5%
<b>Summary</b>	<b>645</b>	32%
Fiscal Fine	291	
Fixed Penalty	20	
Diversion	85	
Reporter	54	
Warning	62	
Work Offer	4	
<b>Direct Measure Total</b>	<b>516</b>	26%
<b>No Action/Not Separately Actioned Total</b>	<b>325</b>	16%
<b>No Decision Total</b>	<b>417</b>	21%
<b>Grand Total</b>	<b>2,004</b>	100%

Source: COPFS

<sup>71</sup> [Recorded Crime in Scotland: 2019-2020](#)

<sup>72</sup> [Criminal proceedings in Scotland: 2019-2020](#)

<sup>73</sup> [ScotStat: Subscribe to our Alerts and Newsletters](#)

7.3.5.13 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 various Health Protection Regulations by date of offence – up to 30 April 2021**

Month	March	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	Total
<b>Total charges reported</b>	33	352	198	42	14	27	48	90	151	176	317	315	166	75	2,004

Source: COPFS

7.3.5.14 The numbers of charges reported in January and February are the highest monthly totals since the start of the Covid crisis. April 2020 remains the month in which the highest number of offences took place. Please note that the number of offences in recent months may increase as further reports are received, but it looks unlikely that they will increase to higher than the level in April 2020.

7.3.5.15 A Local Authority can also use enforcement powers in relation to the parts of the regulations that relate to restrictions on businesses.

7.3.5.16 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 various Health Protection Regulations, made under schedule 19 of the UK Act.

7.3.5.17 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**

7.3.5.18 COVID-19: Scotland's Strategic Framework sets out how the Scottish Government is working to suppress the virus and outlines the move to a strategic approach to outbreak management based on five levels of protection. The levels include graduated packages of measures designed to reduce transmission of the virus based on clinical advice and research. These levels can be applied nationally or to different areas of the country according to the evolving patterns of infection and transmission; higher levels indicate more stringent restrictions in response to higher infection rates.

7.3.5.19 The levels were designed with reference to Scotland's Framework for Decision Making and the four harms caused by the virus – in order to achieve

the targeted impact on harm 1 at each level. They also seek to mitigate as much as possible the impact on harms 2-4.

- 7.3.5.20 Decisions about which levels to apply in which area are taken on the basis of public health and clinical advice, and an assessment against the four harms. These decisions require judgement to be applied to all the facts and considerations relevant at the time they are made.
- 7.3.5.21 The Strategic Framework is clear that decisions allocating levels to areas have to be based firmly in the best available evidence and information. They are assessed through a process that is open, transparent and collaborative so that restrictions are not kept in place longer than is strictly necessary to achieve the aim of suppressing the virus.
- 7.3.5.22 The process for moving between the levels takes in clinical advice from the National Incident Management Team and Scottish Government clinical leads – around the Harm 1 direct health impacts from COVID. Directors of Public Health monitor data on a daily and weekly basis and SG officials update the suite of indicators weekly. The National Incident Management Team considers this information alongside local data and analysis in providing public health advice.
- 7.3.5.23 This is brought together with evidence and the assessment of impact on the other Harms caused by the virus – including the indirect health harms, the social harms and harms to the economy. A range of indicators, along with other evidence, is used to build up a picture of the Four Harms impacts of changes to levels. Wider considerations will also be taken into account such as the prevalence of infection elsewhere, or of the characteristics of new variants – which might suggest differential impacts.
- 7.3.5.24 Changes to level allocation, whether up or down, need to be justified by the data, supported by public health advice and consistent with the Framework for Decision Making. Decisions are made by Ministers, in exercise of their statutory powers in relation to public health, and implemented through regulations.
- 7.3.5.25 Local authority partners are engaged in the decision making process through the National Incident Management Team and are consulted ahead of decisions applying levels being taken.
- 7.3.5.26 The Regulations must be reviewed at least every 21 days to ensure that the measures they impose continue to be necessary and proportionate.
- 7.3.5.27 In between these formal reviews, the individual measures are kept under continuous review and changes are assessed through the Four Harms approach. Changes arising from the reviews are set out to the Scottish Parliament in plenary and then considered by the Parliament's COVID-19 Committee.
- 7.3.5.28 Throughout the development of the regulations and guidance, the Scottish Government has always had regard to the need to protect human rights,

equality considerations, the impact on business and the particular needs of island communities as part of the policy development process.

- 7.3.5.29 Ministers are clear that the restrictions and requirements imposed by regulations must be necessary and proportionate. Whilst measures across the levels aim to deal with a significant threat to public health, impact assessments have been, and will continue to be, carried out as required on these measures. Any proposed changes will be 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.

## **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>74</sup> was made on 25 March 2020 under schedule 21, and a further clarificatory declaration<sup>75</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 particularly as restrictions ease and Scotland enters a covid recovery period. There is also the potential for new variants to emerge. The Test and Protect programme aims to identify those at risk of exposure in order to test for coronavirus and require self-isolation. Where individuals do not co-operate on a voluntary basis it may be necessary, 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

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<sup>74</sup> [Coronavirus \(COVID-19\): Declaration of a serious and imminent threat to public health](#)

<sup>75</sup> [Coronavirus \(COVID-19\): Declaration of a serious and imminent threat to public health \(supplementary\)](#)

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.

## **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>76</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>77</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>78</sup> 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.
- 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 as restrictions ease and Scotland enters a covid recovery period 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

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<sup>76</sup> [Coronavirus \(COVID-19\): Declaration of a serious and imminent threat to public health](#)

<sup>77</sup> [Coronavirus \(COVID-19\): Declaration of a serious and imminent threat to public health \(supplementary\)](#)

<sup>78</sup> [The Health Protection \(Coronavirus, Restrictions\) \(Directions by Local Authorities\) \(Scotland\) Regulations 2020](#)

powers may be necessary to allow Scottish Ministers to take more targeted action in local areas to close specific premises where there is a particularly significant 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 a particularly significant outbreak spanning one or more areas 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**

Ref	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 (31 May 2021)
1.	<a href="#">The National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2020</a> SSI 2020/17	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 visitor.	30/01/2020	Open-ended	<b>In force</b>  No change to status since last reporting period
2.	<a href="#">The Public Health etc. (Scotland) Act 2008 (Notifiable Disease and Notifiable Organisms) Amendment Regulations 2020</a> SSI 2020/51	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

Ref	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 (31 May 2021)
3.	<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>Expired on 31 March 2021</b>  Replaced by SSI 2021/151 for 2021-22
4.	<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, when the provisions in SSI 2021/137 come into force.	06/04/2020	04/04/2021	<b>Expired</b> This provision expired when the relevant UK Government measure ended
5.	<a href="#">The Carer's Allowance (Coronavirus) (Breaks in</a>	Sections 70(8) and 175(1) and (3) of the Social	Negative	Relaxes the rules on breaks in caring so that breaks due to a carer or cared-for	03/04/2020	Initially 8 months from 03/04/2020	<b>In force</b>  Duration of this easement was

Ref	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 (31 May 2021)
	<a href="#">Care)(Scotland) Regulations 2020</a> SSI 2020/117	Security Contributions and Benefits Act 1992		<p>person being infected with or self-isolating due to COVID-19 do not affect carers' receipt of Carer's Allowance.</p> <p>Payment will continue throughout any coronavirus-related break in care during the period for which regulation 2 of the 2020 Regulations has effect.</p>		<p>The application of regulation 2, which provides for the relaxation of the rules on breaks in care, was extended to 12/05/2021 at 23:59 by SSI 2020/350.</p> <p>The application was further extended, to 31 August 2021, by SSI 2021/140 – see related table entries.</p>	<p>extended to 12 May 2021 at 2359 hours by SSI 2020/350 – see related table entry.</p> <p>Regulations came into force on 12 May 2021 to further extend the duration of this easement to 31 August 2021 – SSI 2021/140 – see related table entry. There is also a corresponding adjustment to the savings provision which ensures that a coronavirus-related break in care won't be counted against a person's entitlement to carer's allowance during future breaks in care once</p>

Ref	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 (31 May 2021)
							the easement no longer has effect.
6.	<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>Not in force</b>  No change to status since last reporting period
7.	<a href="#">The Prisoner and Young Offenders Institutions (Scotland) Amendment Rules 2020</a> SSI 2020/122	Section 39 of the Prisons (Scotland) Act 1989	Negative	The amendments provide Governors with flexibility in regards to compliance with timescales and the provision of services detailed in Prison Rules.	07/04/2020	30/09/2021	<b>Partially in force</b>  No change to status since last report – see entry for SSI 2020/264 and SSI 2021/80.
8.	<a href="#">The Electricity Works (Miscellaneous Temporary Modifications) (Scotland) Regulations 2020</a>	Section 2(2) of the European Communities Act 1972, sections 36(8), 36C(2), 60(2) and (3) and	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 in status since last reporting period

Ref	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 (31 May 2021)
	SSI 2020/123	paragraph 1(3) of schedule 8 of the Electricity Act 1989					
9.	<a href="#">The Town and Country Planning (Miscellaneous Temporary Modifications)(Coronavirus) (Scotland) Regulations 2020</a> SSI 2020/124	Section 2(2) of the European Communities Act 1972, sections 35B(5), 40, 43A(10) and (11) and 275 of the Town and Country Planning (Scotland) Act 1997	Negative	Suspends requirements for certain public events and meetings and 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  Regulation 2 allows applications to be made up to 6 months after this point, where pre-application consultation (PAC) was carried out in accordance with the temporary emergency requirements	<b>In force</b>  No change in status since last reporting period

Ref	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 (31 May 2021)
						rather than the re-instated PAC requirements.	
10.	<a href="#">The Education (Misc. Amendments)(Coronavirus) (Scotland) Regulations 2020</a>  SSI 2020/128	<a href="#">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</a>	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>
11.	<a href="#">The Town and Country Planning (General Permitted Development) (Scotland) (Coronavirus)</a>	<a href="#">Sections 30, 31 and 275 of the Town and Country Planning</a>	Negative	Allows Local Authorities to carry out development for emergency purposes.	24/04/2020	31/12/2021	<b>In force</b>  Time period for effect of changes extended by SSI 2021/29

Ref	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 (31 May 2021)
	<a href="#">Amendment Order 2020</a> SSI 2020/129	<a href="#">(Scotland) Act 1997</a>					
12.	<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.
13.	<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>Only temporary exceptions Expired</b> Repealed by the Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and Revocation) (Coronavirus) Order 2021 (SSI 2021/10). <b>Permanent amendments of</b>

Ref	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 (31 May 2021)
							<b>2020/139 remain in place.</b>
14.	<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
15.	<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 subsequent amendments required to trials involving adults with incapacity	21/05/2020	Open-ended	<b>In force</b>  No change to status since last reporting period

Ref	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 (31 May 2021)
				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.			
16.	<a href="#">The Marine Works &amp; Marine Licensing (Miscellaneous Temporary Modifications) (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 at a physical location.	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
17.	<a href="#">The Police Act 1997 and Protection of Vulnerable Groups (Scotland) Act 2007 (Fees) (Coronavirus) Regulations 2020</a>	Sections 112(1)(b), 113A(1)(b), 113B(1)(b), 114(1)(b) and 116(1)(b) of the Police Act	Negative	Qualifying sectors recruiting staff solely to respond to pandemic do not pay usual fee for a disclosure check.	26/06/2020	25/03/2022	<b>In force</b> The period for which this SSI has effect was extended to 25 March 2021 by the Police Act 1997

Ref	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 (31 May 2021)
	SSI 2020/163	1997 and sections 70(1) and (2) of the Protection of Vulnerable Groups (Scotland) Act 2007					and the Protection of Vulnerable Groups (Scotland) Act 2007 (Fees) (Coronavirus) (Amendment) Regulations 2020 (SSI 2020/376). That period has been further amended to 25 March 2022 by The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 (Fees) (Coronavirus) Amendment Regulations 2021 (SSI 2021/71).
18.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020</a>	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	08/06/2020	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
	SSI 2020/169			requirement to self-isolate for 14 days after arrival, subject to a limited number of sectoral exemptions.			
19.	<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	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.
20.	<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	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
21.	<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>No longer in force</b>
22.	<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
23.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment</a>	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	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
	<a href="#">(No.2)Regulations 2020</a> SSI 2020/184						
24.	<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>No longer in force</b>

Ref	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 (31 May 2021)
25.	<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 guidance, and support access to justice for appeals against special restrictions or requirement.	01/07/2020 for Regulations 1 to 3, and 05/08/2020 for Regulation 4	For the duration of the emergency period, defined as the period beginning on 01/07/2020 and ending on the date on which Part 9 of schedule 4 of the Coronavirus (Scotland) Act 2020 expires in accordance with section 12 of that Act	<b>In force</b>  No change to status since last reporting period
26.	<a href="#">The Registration of Independent Schools (Prescribed Persons)(Coronavirus) (Scotland) Amendment Regulations 2020</a>	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	04/07/2020	Open-ended	<b>In force</b>  No change to status since last reporting period

Ref	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 (31 May 2021)
	SSI 2020/205			remaining teachers in independent schools to register with the General Teaching Council for Scotland.			
27.	<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	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.
28.	<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 is between 15/07/2020 and	15/07/2020	Applied to transactions with an effective date from the date of commencement up to the and including 31/03/2021	<b>Expired</b>  Order ceased to have effect for transactions with an effective date after 31 March 2021.

Ref	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 (31 May 2021)
				31/03/2021 (inclusive of these dates). The rates for the Additional Dwelling Supplement and non-residential LBTT will remain unchanged.			
29.	<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	20/09/2021	<b>In force</b>  Superseded by SSI 2021/21  Expiry date amended by SSI 2021/158.
30.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 5) Regulations 2020</a> SSI 2020/224	Section 94 of the Public Health etc. (Scotland) Act 2008	Made Affirmative	Amended the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 to remove Spain from the list of exemptions from the requirement to self-	26/07/2020	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
				isolate for 14 days on arrival in Scotland.			
31.	<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 requirement to self-isolate for 14 days on arrival in Scotland.	28/07/2020	20/09/2021	<b>In force</b>  Superseded in respect of the addition of Estonia and Latvia by SSI 2020/404 and St Vincent and the Grenadines by SSI 2021/21  Expiry date amended by SSI 2021/158.
32.	<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)	05/09/2020	31/03/2021	<b>Expired on 31 March 2021</b>  Replaced by SSI 2021/151 for 2021-22

Ref	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 (31 May 2021)
				<p>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 (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</p>			

Ref	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 (31 May 2021)
				provide a relief from liability to pay rates.			
33.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.7) Regulations 2020</a>  SSI 2020/233	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	To amend the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 to remove Luxembourg from the list of exempt countries from quarantine requirements.	31/07/2020	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.
34.	<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	Removals came into force 08/08/2020  Additions came into force 11/08/2020	20/09/2021	<b>In force</b>  Superseded in respect of the addition of Brunei and Malaysia by SSI 2021/21.  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
				exempt from the requirement to self-isolate for 14 days on arrival in Scotland.			
35.	<a href="#">The Representation of the People (Absent Voting at Local Government Elections) (Amendment) (Coronavirus) (Scotland) Regulations 2020</a> SSI 2020/240	Sections 33 and 61(2) 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
36.	<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 and territories are	15/08/2020	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
				exempt from the requirement to self-isolate for 14 days on arrival in Scotland.			
37.	<a href="#">The Direct Payments to Farmers (Controls) (Coronavirus) (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  Payments for the schemes run in the 2020 claim year are still being made.
38.	<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. Travellers from these countries	22/08/2020	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
				<p>and territories are exempt from the requirement to self-isolate for 14 days on arrival in Scotland.</p> <p>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.</p> <p>Amends schedule 3 Specified Competitions adding the Dubai Duty Free Irish Open Golf Tournament (European Tour) and The Northern Ireland Golf Open Tournament (European Challenge Tour supported by the R&amp;A).</p>			

Ref	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 (31 May 2021)
39.	<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 exempt from the requirement to self-isolate for 14 days on arrival in Scotland.	29/08/2020	20/09/2021	<b>In force</b>  Superseded in relation to the addition of Cuba by SSI 2021/21.  Expiry date amended by SSI 2021/158.
40.	<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	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

Ref	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 (31 May 2021)
41.	<a href="#">The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2020</a>  SSI 2020/268	Section 29(3) and (4) of the Housing (Scotland) Act 1987	Negative	To temporarily modify the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 to allow temporary accommodation for reasons related to coronavirus.	30/09/2020	31/01/2021	<b>Temporary Exceptions Expired</b> Repealed by the Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and Revocation) (Coronavirus) Order 2021 (SSI 2021/10).
42.	<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	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
43.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 13) Regulations 2020</a>  SSI 2020/274	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 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 the list of specified competitions.	05/09/2020	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
44.	<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
45.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 14) Regulations 2020</a>  SSI 2020/280	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 Hungry and Reunion and add Sweden to the list of exempt countries and territories in the International Travel Regulations. Also enabled a regional approach to be taken	12/09/2020	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
				to removals from and additions to the list of exempt countries and territories in schedule A1 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.			
46.	<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>Not in force</b>  Superseded by SSI 2020/421

Ref	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 (31 May 2021)
47.	<a href="#">The Representation of the People (Register Publication Date)(Coronavirus)(Scotland) Regulations 2020</a>  SSI 2020/287	Sections 13(1)(a) and 201(1) and (3) of the Representation of the People Act 1983	Affirmative	Postpones the publication date of the revised electoral register from 01/12/2020 to 01/02/2021 to give electoral administrators more time to complete their canvass with reduced resources (an impact of COVID-19).	17/09/2020	01/02/2021	<b>Expired</b>  Only relates to the 2020 register and extended the publication date of that register to 1 February 2021, which has now passed.
48.	<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 the time these regulations come into force are no longer exempt from the movement restriction in regulation 6 of the	19/09/2020	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
				International Travel Regulations if, during the 14 days preceding their arrival, they have departed from, or transited through, Guadeloupe or Slovenia.			
49.	<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 remove Curacao, Denmark, Iceland and Slovakia from the list of exempt countries and territories. To update passenger information requirements.	26/09/2020	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.  Superseded in respect of passenger information by SSI 2021/208
50.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 17) Regulations 2020</a>	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 Turkey, Poland and Bonaire, Sint Eustatius	03/10/2020	20/09/2021	<b>In force</b>  Superseded in respect of the addition of Madeira and the Azores by SSI 2021/19.

Ref	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 (31 May 2021)
	SSI 2020/307			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 self-isolate for 14 days on arrival in Scotland.			Expiry date amended by SSI 2021/158.
51.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 18) Regulations 2020</a>  SSI 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	17/10/2020	20/09/2021	<b>In force</b>  Superseded in respect of the additions to the list of exempt countries by SSIs 2020/378 and 2021/21.  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
				<p>Greece excluding Mykonos. 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.</p> <p>Also 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 training, and to multinational ancillary sportspersons.</p>			

Ref	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 (31 May 2021)
52.	<a href="#">The Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) (Amendment) Regulations 2020</a>  SSI 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	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.
53.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 19) Regulations 2020</a>  SSI 2020/330	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 Liechtenstein from the list of exempt countries and territories in the International Travel Regulations and add The Canary Islands,	24/10/2020	20/09/2021	<b>In force</b>  Superseded in respect of the addition of the Canary Islands by SSI 2020/431 and the addition of the Maldives by SSI 2021/21  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
				<p>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.</p> <p>To also remove booking reference from the passenger information 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).</p>			

Ref	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 (31 May 2021)
54.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 20) Regulations 2020</a>  SSI 2020/343	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 Lithuania and Cyprus 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. To also remove competitions which have now concluded from the list of specified competitions in schedule 3A	31/10/2020	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
55.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 21) Regulations 2020</a>  SSI 2020/354	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 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.	The removal of Denmark came into force on 06/11/2020  Removal of Germany and Sweden came into force on 07/11/2020	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158
56.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.</a>	Section 94(1)(b)(i) and 122(2)(b) of the Public Health etc.	Made Affirmative	To further amend SSI 2020/169 - the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations	07/11/2020	12 months from 08/06/2020	<b>No longer in force</b>  Revoked by SSI 2020/404.

Ref	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 (31 May 2021)
	<a href="#">22) Regulations 2020</a> SSI 2020/358	(Scotland) Act 2008		2020 to extend the 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.			
57.	<a href="#">The Town and Country Planning (General Permitted Development) (Coronavirus) (Scotland) Amendment (No. 2) Order 2020</a> SSI 2020/366	Sections 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997	Negative	Extends the duration of application of provisions in the emergency Town and Country Planning (General Permitted Development) (Scotland) (Coronavirus) Amendment Order 2020 which grant temporary Permitted Development Rights	30/12/20	01/07/21	<b>In force</b>  Relevant time periods superseded by SSI 2021/29

Ref	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 (31 May 2021)
				(PDR) for emergency development undertaken by Health Boards and Local Authorities to manage the impacts of the virus.			
58.	<a href="#">The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 (Fees) (Coronavirus) (Amendment) Regulations 2020</a>  SSI 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 Groups (Scotland) Act 2007	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 priority applications will remain on a statutory footing until 25 March 2021.  Superseded by SSI 2021/71 (see below).	26/12/20	25/03/21	<b>In force</b>  Extends the end date of SSI 2020/163 until 25 March 2021 – now further extended by SSI 2021/71 (see below).

Ref	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 (31 May 2021)
59.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 23) Regulations 2020</a>  SSI 2020/378	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 Greece (excluding the islands of Rhodes, Kos, Corfu, Crete and Zakynthos) and The Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus from the list of exempt countries and territories in the International Travel Regulations and add Bahrain, Cambodia, Chile, Iceland, Laos, Qatar, the United Arab Emirates and the Turks and Caicos Islands. Travellers from exempt countries and territories are exempt from the	14/11/2020	20/09/2021	<b>In force</b>  Superseded in respect of the additions to the list of exempt countries and territories by SSIs 2021/6, 2021/7, 2021/19 and 2021/21.  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
				requirement to self-isolate for 14 days on arrival in Scotland.			
60.	<a href="#">The Carer's Allowance (Coronavirus) (Breaks in Care) (Scotland) Amendment Regulations 2020</a>  SSI 2020/350	Sections 70(8) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992	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.	3/12/20	31/08/2021	<b>In force</b>  Duration of this easement was further extended to 31 August 2021 on 12 May 2021 by SSI 2021/140 – see related table entry. There is also a corresponding adjustment to the savings provision which ensures that a coronavirus-related break in care won't be counted against a person's entitlement to carer's allowance during future breaks in care once the easement no longer has effect.

Ref	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 (31 May 2021)
61.	<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, 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	28/11/20	20/09/2021	<b>In force</b>  Superseded in respect of the additions to the list of exempt countries by SSIs 2020/444, 2021/5, 2021/19 and 2021/21.  Expiry date amended by SSI 2021/158

Ref	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 (31 May 2021)
				days on arrival in Scotland. To revoke SSI 2020/358 which put in place additional measures in respect of Denmark.			
62.	<a href="#">The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) (No.2) Order 2020</a>  SSI 2020/419	Section 29(3) and (4) of the Housing (Scotland) Act 1987	Negative	To amend the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 (2020/139) to take into account feedback from the Local Authority working group and other stakeholders about the drafting of the 2020/139 Order.	31/01/2021	Open ended	<b>Will be fully in force when the temp exceptions of 2021/10 expire on 30 June 2021, Unless these are extended further</b>
63.	<a href="#">The Corporate Insolvency and Governance Act 2020 (Meetings of Scottish Charitable Incorporated Organisations)</a>	Corporate Insolvency and Governance Act 2020, schedule 14, para 2(2)(b)	Made Affirmative	To extend a relevant period in which SCIOs can hold meetings including AGMs remotely to 30 March 2021	30/12/2020	30/12/2020 – 30/03/2021	<b>In force</b> but the relevant period ended on 30 March 2021

Ref	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 (31 May 2021)
	<a href="#">(Coronavirus) (No.2) Regulations 2020</a> SSI 2020/421						
64.	<a href="#">The Health Protection (Coronavirus) (International Travel and Public Health Information) (Scotland) Regulations 2020</a> SSI 2020/431	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Removes the Canary Islands from the list of exempt countries or territories or parts of countries or territories in schedule A1, Part 1 and adds Botswana and Saudi Arabia to the list of exempt countries or territories or parts of countries or territories in schedule A1, Part 1. Reduces the quarantine period from 14 days to 10.	11/12/2020	20/09/2021	<b>In force</b>  Superseded in respect of the addition of Botswana by SSI 2021/5, and of Saudi Arabia by SSI 2021/21  Expiry date amended by SSI 2021/158
65.	<a href="#">The Health Protection (Coronavirus) (International Travel and Public Health Information) (Scotland) (No. 2) Regulations 2020</a>	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Removes Namibia, the United States Virgin Islands and Uruguay from the list of exempt countries or territories or parts of countries or territories in schedule A1, Part 1 of the Health Protection	18/12/2020	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158

Ref	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 (31 May 2021)
	SSI 2020/444			(Coronavirus) (International Travel) (Scotland) Regulations 2020			
66.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 25) Regulations 2020</a>  SSI 2020/474	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Extends the 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 South Africa, and it removes specific exemptions that apply to particular categories of person from those who have arrived from South Africa.	23/12/2020	20/09/2021	<b>In force</b>  Superseded in part by amendments made by SSI 2021/5  Expiry date amended by SSI 2021/158
67.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment Regulations 2021</a>	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Removes Botswana, Israel and Jerusalem, Mauritius and Seychelles from the list of exempt countries or territories or parts of countries or territories in schedule	08/01/2021	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158

Ref	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 (31 May 2021)
	SSI 2021/5			A1, Part 1 of the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020. Creates schedule A2 for acute risk countries and territories and adds Angola, Botswana, Eswatini, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Zambia and Zimbabwe to that schedule.			
68.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.2) Regulations 2021</a> SSI 2021/6	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Removes the Emirate of Dubai from the list of exempt countries or territories in schedule A1 of the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020	10/01/21	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158

Ref	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 (31 May 2021)
69.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.3) Regulations 2021</a>  SSI 2021/7	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Removes the United Arab Emirates from the list of exempt countries or territories in schedule A1 of the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020	11/01/21	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158
70.	<a href="#">The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2021</a>  SSI 2021/10	Section 29(3) and (4) of the Housing (Scotland) Act 1987	Negative	Extends coronavirus related exceptions created via The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 and the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment (Coronavirus) Order 2020, for a further 5 months, given the ongoing impact and	31/01/2021	30/06/2021	<b>In force</b>  To be repealed on 29th June 2021 (See entry 100 in the table)

Ref	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 (31 May 2021)
				repercussions to the housing and homelessness system of the pandemic.			
71.	<a href="#">The Council Tax Reduction (Scotland) (Amendment) (Coronavirus) Regulations 2021</a>  SSI 2021/12	Sections 80 and 113(1) and paragraph 1 of schedule 2 of the Local Government Finance Act 1992	Negative	Amends the Council Tax Reduction Regulations to fully disregard the one-off payment of £500 to NHS and social care workers.	25/02/2021	On-going	<b>In force</b>
72.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.4) Regulations 2021</a>  SSI 2021/19	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Removes Aruba, the Azores, Bonaire, Sint Eustatius and Saba, Chile, Madeira and Qatar from the list of exempt countries or territories or parts of countries or territories in schedule A1, Part 1 of the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations	14/01/2021	20/09/2021	<b>In force</b>  Superseded in respect of the removal of Falkland Islands from schedule A1 and its addition to schedule A2 by SSI 2021/111.  Expiry date amended by SSI 2021/158

Ref	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 (31 May 2021)
				2020, and removes the Falkland Islands from the list of exempt United Kingdom overseas territories in schedule A1 Part 2. Adds all countries in South America, Portugal, Panama and Cape Verde to the list of acute risk countries and territories in schedule A2.			
73.	<a href="#">The Health Protection (Coronavirus, Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021</a>  SSI 2021/20	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Introduces a new scheme for pre-departure testing to apply to persons travelling to Scotland by placing duties on persons to obtain a negative test pre-departure underpinned by criminal offences. Provides exemptions from pre-departure testing for certain limited categories of traveller.	14/01/2021	20/09/2021	<b>In force</b>  Expiry dates of Parts 1 and 2 amended by SSI 2021/158

Ref	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 (31 May 2021)
				Part 2 places related duties upon operators to ensure persons do not arrive in Scotland without a negative test result. The instrument creates criminal offences in respect of failure to comply with these duties. The instrument creates a duty on operators to ensure that persons do not arrive without a completed Passenger Locator Form and it creates a criminal offence in respect of a failure by an operator to comply with said duty.			
74.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.5) Regulations 2021</a>	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Removes all countries and territories from the list of exempt countries or territories in schedule A1 of the principal Regulation.	15/01/2021	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158

Ref	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 (31 May 2021)
	SSI 2021/21			Amends the principal Regulations to remove persons engaged in film or TV production and performing arts professionals from schedule 2			
75.	<a href="#">The Health Protection (Coronavirus) (International Travel, Public Health Information and Pre-Departure Testing) (Scotland) Amendment Regulations 2021</a>  SSI 2021/34	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	<p>Adds Democratic Republic of the Congo and Tanzania to the “acute risk countries or territories” contained in schedule A2.</p> <p>Reduces the amount of passenger information that people travelling to Scotland are required to provide on the Passenger Locator Form. The information operators are required to provide to passengers includes information about the requirement, under regulation 5A of the principal Regulations,</p>	21/01/2021	20/09/2021	<p><b>In force</b></p> <p>Expiry date amended by SSI 2021/158</p> <p>Superseded in respect of passenger information by SSI 2021/208</p>

Ref	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 (31 May 2021)
				to possess notification of a negative coronavirus test result. Amends Part 2 of the Pre-Departure Testing Regulations so that operators are not required to ensure that a notification of a negative coronavirus test result is from a “qualifying test”, but are instead required only to check that passengers possess a notification of a coronavirus test which includes specified information.			
76.	<a href="#">The Town and Country Planning (General Permitted Development) (Coronavirus) (Scotland) Amendment Order 2021</a>	Sections 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997	Negative	Extends the duration of application of provisions in the emergency Town and Country Planning (General Permitted Development) (Scotland) (Coronavirus)	28/02/2021	31/12/2021 for local authority and health bodies/ 18 months from date development started on Crown land	<b>In force</b>

Ref	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 (31 May 2021)
	SSI 2021/29			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 and would introduce PDR for similar developments by or on behalf of the Crown on Crown land.			
77.	<a href="#">The Education (Miscellaneous Amendments) (Coronavirus) (Scotland) Regulations 2021</a>  SSI 2021/31	Sections 28A(5), 28D(3), 28H(5), 56A, 56B and 56D of the Education (Scotland) Act 1980 and section 22 and paragraphs 4(3) and 6(6)	Negative	To amend timescales in regulations relating to placing requests and exclusion appeals procedure. Also to make non-coronavirus related amendments to the Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2020.	27/02/2021	Open-ended	<b>In force</b>

Ref	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 (31 May 2021)
		of schedule 2 of the Education (Additional Support for Learning) (Scotland) Act 2004					
78.	<a href="#">The Single Use Carrier Bags Charge (Coronavirus) (Scotland) Amendment Regulations 2021</a>  SSI 2021/53	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.	29/01/2021	Has effect until 00:01 on 31/05/2021	<b>In force</b>
79.	<a href="#">The Health Protection (Coronavirus) (International Travel, Prohibition on Travel from the United Arab Emirates) (Scotland) Amendment Regulations 2021</a>	Sections 94(1)(b) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Adds Burundi, Rwanda and The United Arab Emirates to the list of acute risk countries and territories in schedule A2 of the International Travel Regulations. Bans the arrival of passenger flights from	29/01/2021	20/09/2021 No period specified in respect of ban on flights from UAE.	<b>In force</b>  Expiry of provisions which amend the international travel regulations amended by SSI 2021/158.  Provisions prohibiting flights

Ref	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 (31 May 2021)
	SSI 2021/52			the United Arab Emirates.			from UAE revoked by SSI 2021/181.
80.	<a href="#">The Police Act 1997 and the Protection of Vulnerable Groups (Scotland) Act 2007 (Fees) (Coronavirus) Amendment Regulations 2021</a>  SSI 2021/71	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	The amendment SSI extends the existing provisions of SSI 2020/163 until 25 March 2022. This amendment SSI supersedes SSI 2020/376. The changes mean that the disclosure application fee of £0 for COVID-19 priority applications will remain on a statutory footing until 25 March 2022.	25 March 2021	One year	<b>In force</b>
81.	<a href="#">The Local Authority (Capital Finance and Accounting) (Scotland) (Coronavirus) Amendment</a>	Section 165 of the Local Government etc. (Scotland) Act 1994	Affirmative	Amendments to the Local Authority (Capital Financing and Accounting) (Scotland) Regulations 2016 relating to a loan fund	Part 1 5 March 2021 Part 2 1 April 2022	Repayment holiday only available for the financial years 2020-	<b>In force</b>

Ref	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 (31 May 2021)
	<a href="https://legislation.gov.uk">Regulations 2021 (legislation.gov.uk)</a> SSI 2021 /119			repayment holiday in light of the financial impact of coronavirus and permanent amendments to repayment arrangements from 1 April 2022.		21 and 2021-22.	
82.	<a href="#">The Rural Support (Controls) (Coronavirus) (Scotland) Regulations 2021</a> SSI 2021/72	Article 75(3) of Regulation (EU) No. 1306/2013 as incorporated into UK domestic law in terms of the Direct Payments to Farmers (Legislative Continuity) Act 2020 (c.2),	Made Affirmative	The effect of the SSI is that it will provide a derogation from the requirement for the verification of all eligibility conditions to be completed for payments to commence as, due to the coronavirus pandemic, on-the-spot checks have been postponed. The effect of the derogation is that payments to beneficiaries may be made, for the schemes covered by the derogation, after the administrative	31 March 2021	The derogation will only apply for the claim years 2020 and 2021 for certain designated schemes.	<b>In force</b>

Ref	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 (31 May 2021)
				checks have been finalised. This will enable us to make payments timeously before completing physical on-the-spot checks to provide continued financial stability to our farmers and crofters.			
83.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Managed Accommodation and Testing) (Scotland) Regulations 2021</a>  SSI 2021/74	Sections 94(1)(b) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008 and Coronavirus Act 2020 schedule 19 para 1(1).	Made Affirmative	New requirements of:- (i) Managed self-isolation – for all travellers, subject to exemptions, who arrive directly into Scotland from outside the Common Travel Area or from the Republic of Ireland having departed from or transited through an acute risk country. (ii) Mandatory testing for travellers, subject to exemptions, who have been outside the Common Travel Area	15/02/2021	20/09/2021	<b>In force</b>  Superseded in respect of the scope of managed isolation by SSI 2021/81, SSI 2021/107 and SSI 2021/179.  Expiry date amended by SSI 2021/158  Superseded in respect of passenger

Ref	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 (31 May 2021)
				in the 10 days prior to arrival in Scotland (requiring such persons to book, pay for and undertake two tests for the detection of coronavirus). Amends information required on PLF, amends exemptions and places further duties on operators.			information by SSI 2021/208
84.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 6) Regulations 2021</a>  SSI 2021/81	Sections 94(1)(b) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	Amends regulation 6A and 6B of the International Travel Regulations so that the requirement to possess a managed self-isolation package applies to persons who travel to Scotland from England, where they would otherwise be required to comply with equivalent regulations in England.	18/02/2021	20/09/2021	<b>In force</b>  Superseded in respect of the amendments to regulations 6A and 6B by SSI 2021/107.  Expiry date amended by SSI 2021/158.

Ref	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 (31 May 2021)
				The Regulations also amend regulation 9(1) of the International Travel Regulations to add the requirements in regulations 6A (2) and 6A (4) to the list of provisions of which breach is a criminal offence. Finally, amendments are made to regulation 11 so that an immigration officer may issue a fixed penalty notice for a failure to comply with regulations 6A(2) and 6A(4).			
85.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Managed Accommodation and Testing etc.) (Scotland) Amendment Regulations 2021</a>	Sections 94(1)(b) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	Amends regulations 6A and 6B of the International Travel Regulations so that the requirements to possess a managed self-isolation package and to stay in managed accommodation apply	26/02/2021 except for regulation 8(b) which came into force on 25/02/2021	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158

Ref	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 (31 May 2021)
	SSI 2021/107			to certain persons who arrive in Scotland from elsewhere within the common travel area, where that person has, at any time in the period beginning with the 10th day before the date of their arrival in Scotland, departed from or transited through an acute risk country or territory. This instrument amends the International Travel Regulations so that persons whose arrival in the United Kingdom has been arranged under a UK refugee resettlement scheme are not required to stay in managed accommodation but are required to stay in a specified premises.			

Ref	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 (31 May 2021)
				Schedule 2 of the International Travel Regulations is amended so that oil and gas workers returning from an installation in the North Sea who have transited via a non-acute risk country or territory (but have not entered that country or territory) are not required to stay in managed accommodation but are required to stay in specified premises (e.g. their own home).			
86.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 7) Regulations 2021</a>  SSI 2021/111	Sections 94(1)(b) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	Removed Falkland Islands from the list of acute risk countries in schedule A2.	27/02/2021	20/09/2021	<b>In force</b>  Expiry date amended by SSI 2021/158

Ref	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 (31 May 2021)
87.	<a href="#">The Council Tax Reduction (Scotland) Amendment (No. 3) (Coronavirus) Regulations 2021</a> SSI 2021/137	Sections 80 and 113(1) and paragraph 1 of schedule 2 of the Local Government Finance Act 1992	Negative	Amends the Council Tax Reduction scheme to fully disregard the one-off £500 payment that UK Government is paying to working households receiving tax credits.	5/04/2021	Ongoing	<b>In force</b>
88.	<a href="#">The Carer's Allowance (Coronavirus) (Breaks in Care) (Scotland) Amendment Regulations 2021</a> SSI 2021/140	Sections 70(8) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992	Negative	To amend the Carer's Allowance (Coronavirus) (Breaks in Care) (Scotland) Regulations so as to extend the duration of the coronavirus easement to 31 August 2021.	12/05/21	31/08/2021	<b>In force</b> There is also a corresponding adjustment to the savings provision which ensures that a coronavirus-related break in care between 3 April 2020 and 1 September 2021 won't be counted against a person's entitlement to carer's allowance during future breaks in care once the easement no longer has effect.

Ref	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 (31 May 2021)
89.	<a href="#">The Valuation (Postponement of Revaluation) (Coronavirus) (Scotland) Order 2020</a>  SSI 2020/418	Sections 13(1) and 42(2) of the Valuation and Rating (Scotland) Act 1956, and 35(2), 35(3) and 37(3) of the Local Government (Scotland) Act 1975	Affirmative	Delays the next non-domestic rates revaluation to 2023, with a tone date of 1 April 2022.	05/12/2020	Open-ended	<b>In force</b>
90.	<a href="#">The Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Regulations 2021</a>  SSI 2021/151	Section 153 of the Local Government etc (Scotland) Act 1994	Negative	Continuation of non-domestic rates relief for properties in the retail, hospitality, leisure, aviation and newspaper publishing sectors in the financial year beginning on 01/04/2021	01/04/2021	31/03/2022	<b>In force</b>
91.	<a href="#">The Prisons and Young Offenders Institutions (Coronavirus) (Scotland)</a>	Section 39 of the Prisons (Scotland) Act 1989.	Negative	Extends the application of amendments made to the Prison Rules 2020 (SSI 2020/122) to 30 September 2021.	31 March 2021	30 September 2021	<b>In force</b>

Ref	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 (31 May 2021)
	<a href="#">Amendment Rules 2021</a> SSI 2021/80			See entries for SSIs 2020/264 and 2020/122			
92.	<a href="#">The Health Protection (Coronavirus) (International Travel etc.) (Scotland) Amendment Regulations 2021</a> SSI 2021/158	Sections 94(1)(b) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made Affirmative	Adds Ethiopia, Oman, Qatar and Somalia to the list of acute risk countries and territories, and removes Mauritius and Portugal from same. Adjusts exemptions from managed self-isolation for seafarers, air crew and certain elite sportspersons. Amends expiry date for international travel and associated regulations to 20 September 2021.	20 March 2021	Until 20 September 2021	<b>In force</b>
93.	<a href="#">The Zoonoses Amendment (Coronavirus) (Scotland) Order 2021</a> SSI No. 2021/83	Sections 1, 7(1), 8(1), 17(1), 23, 29 and 87(2) of the Animal Health Act 1981	No Procedure	The Order amends the Zoonoses Order 1989 (“the Zoonoses Order”), which makes provision for the control of organisms carried in animals	22 Feb. 2021	Ongoing	<b>In force</b>

Ref	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 (31 May 2021)
				which constitute a risk to human health. It designates SARS-CoV-2 as an organism that must be reported to Scottish Ministers if its presence is found in any kind of mammal (except man).			
94.	<a href="#">The Scottish Parliament (Elections etc.) Amendment (Coronavirus) Order 2021</a>  SSI 2021/164	Sections 12(1) and 113(2), (4) and (5) of the Scotland Act 1998	Affirmative	Allows an elector to apply to change the proxy appointed to vote for them, where the existing proxy cannot reasonably attend a polling station for reasons related to coronavirus.	24 March 2021	Until 9 December 2022, unless revoked earlier	<b>In force</b>
95.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 8) Regulations 2021</a>  SSI 2021/179	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Makes further amendments to SSI 2020/169 in relation to Passenger Locator Forms for unaccompanied children travelling to Scotland; self-isolation and day 2 and day 8 testing; isolation for	27 March 2021	Until 20 September 2021	<b>In force</b>

Ref	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 (31 May 2021)
				children returning to boarding schools or from outwith the common travel area; and to clarify when seamen and masters, shipping pilots and inspectors or surveyors of ships are not exempt from the requirements in SSI 2021/169.			
96.	<a href="#">The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) Regulations 2021</a>  SSI 2021/181	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Amends the principle regulation to make clearer the scope of the testing requirements.  Amendment to clarify the application of the requirement to self-isolate in specified premises where individuals are not required to enter managed isolation due to their holding a sectoral exemption.	3 April 2021	Until 20 September 2021	<b>In force</b>

Ref	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 (31 May 2021)
				<p>Adds Bangladesh, Kenya, Pakistan and the Philippines to the “acute risk countries and territories”.</p> <p>Revokes the prohibition on the arrival of aircraft travelling directly from the United Arab Emirates SSI 2021/52.</p>			
97.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 9) Regulations 2021</a>  SSI 2021/191	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Amends the principle Regulations so that persons travelling to Scotland for the purpose of transporting material containing human cells or blood for use in the provision of healthcare by a healthcare provider will be exempt from the requirements to possess a managed self-isolation package	23 April 2021.  Regulation 5 came into force on 26 April 2021	Until 20 September 2021	<b>In force</b>

Ref	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 (31 May 2021)
				<p>and to stay in managed accommodation when arriving in Scotland.</p> <p>Adds India to the “acute risk countries and territories”.</p> <p>Amends schedule 1, passenger information, so that a person must provide the name of the country which issued their passport or travel document, not the name of the issuing authority.</p> <p>Adds “Curling - World Mixed Doubles Championship” to the specified competitions in part 1 of schedule 3A.</p>			

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98.	<a href="#">The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 10) Regulations 2021</a> SSI 2021/204	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Adds Maldives, Nepal and Turkey to the list of “acute risk countries and territories”.	12/05/2021	Until 20 September 2021	<b>In force</b>
99.	<a href="#">The Health Protection (Coronavirus) (International Travel etc.) (Miscellaneous Amendments) (Scotland) (No. 2) Regulations 2021</a> SSI 2021/208	Sections 94(1)(b)(i) and 122(2)(b) of the Public Health etc. (Scotland) Act 2008	Made affirmative	Adds seasonal agricultural workers to the list of persons required to obtain tests after arrival in Scotland.  Amends the principal regulations to include the date on which a person departed from or transited through an exempt country in the information to be given to a test provider.  Amends the principle regulations to broaden	17 May 2021	Until 20 September 2021	<b>In force</b>

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				<p>out the testing requirements on arrival in Scotland.</p> <p>Applies the requirement to self-isolate to persons who fail to undertake the required tests. Applies the requirement to isolate following a positive test result to persons who are required to self-isolate on arrival, or who qualify for an exemption from that requirement.</p> <p>Amends the principal regulations to align with the UKG system of managed isolation for red list, isolation at home for amber list and no isolation for green list.</p>			

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				<p>Adds Australia, Brunei, Faroe Islands, Iceland, Israel and Jerusalem, New Zealand, Portugal, Singapore, Falkland Islands, Gibraltar, St Helena, Ascension and Tristan da Cunha and South Georgia and the Sandwich Islands to schedule A1 ("the green list) of the principal regulations.</p> <p>Amends the passenger information regulations to update the information which operators are required to give to passengers travelling to Scotland.</p>			
100	<a href="#">The Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and</a>	Section 29(3) and (4) of the Housing (Scotland) Act 1987	Negative	Extends coronavirus related exceptions created via The 2020/139, 2020/268 and 2021/10 for a	29/06/2021	Until 30/09/2021	<b>Laid before parliament on 27th May In force on 29th June</b>

Ref	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 (31 May 2021)
	<a href="#">Revocation (Coronavirus) Amendment Order 2021</a> SSI 2021/222			further 3 months, given the ongoing impact and repercussions to the housing and homelessness system of the pandemic.			



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