

The Coronavirus (Extension and Expiry) (Scotland) Act 2021

Report to the Scottish Parliament

3 September 2021

Executive Summary

The Coronavirus (Extension and Expiry) (Scotland) Act 2021 (“the Extension and Expiry Act”) updates a range of existing legislative measures which support various aspects of the ongoing response to the public health emergency caused by the coronavirus (Covid-19) pandemic. The Extension and Expiry Act amends the Coronavirus (Scotland) Act 2020 and the Coronavirus (Scotland) (No.2) Act 2020 to extend Parts 1 of both Acts to 31 March 2022 and to expire certain provisions in the Acts that are no longer considered necessary.

During the parliamentary passage of the Act, amendments were made which introduced a number of new requirements for the Scottish Ministers to report on its response to the Covid-19 pandemic, including measures relating to the holding of marriage ceremonies and civil partnerships, support for businesses and a range of other policy areas.

This report gives effect to the duties placed on Scottish Ministers in sections 5 and 7 of the Act to lay reports before the Scottish Parliament on these topics no later than one month after Royal Assent of the Act. The Scottish Government will continue to report bi-monthly to the Scottish Parliament on the status of all provisions in the Scottish Coronavirus Acts.

John Swinney MSP

Deputy First Minister and Cabinet Secretary for Covid Recovery

Contents

[Introduction](#)

[Reporting Requirements](#)

[Report under section 5 of the Act – report on certain matters relating to the Act](#)

[1. Section 5\(1\) \(a\): Marriage and civil partnership](#)

[2. Section 5\(1\) \(b\) – measures to help businesses](#)

[3. Section 5\(1\) \(b\) \(ii\) - live music and live music venues](#)

[4. Section 5\(1\) \(b\) \(iii\) - social security support for carers](#)

[5. Section 5\(1\) \(b\) \(iv\) - support to persons who are required to self-isolate for a reason relating to Covid-19](#)

[6. Section 5\(1\) \(b\) \(v\), section 5\(2\) \(e\) and report under Section 7 of the Act - Social care services](#)

[7. Section 5\(1\) \(c\) - the use of fiscal fines](#)

Introduction

1. As required by section 5 and 7 of the Coronavirus (Extension and Expiry) (Scotland) Act 2021 (“the Extension and Expiry Act”), this report includes information about the relevant subject matters set out in those sections

Reporting requirements

2. Section 5 of the Extension and Expiry Act requires that the Scottish Government reports to the Scottish Parliament on -

- (a) progress being made towards marriage ceremonies and civil partnership registrations and associated celebratory events being able to be held without restrictions arising from the spread or incidence of coronavirus,
- (b) the view of the Scottish Ministers of the effect of the Act on—
 - (i) the measures in place to help businesses to deal with the effects of disruption attributable to coronavirus,
 - (ii) live music and live music venues,
 - (iii) social security support available for carers,
 - (iv) support available to persons who are required to self-isolate for a reason relating to coronavirus, and
 - (v) social care services, and
- (c) the use of fiscal fines (that is, conditional offers of fixed penalties under section 302 of the Criminal Procedure (Scotland) Act 1995) during the period beginning on 7 April 2020 and ending on 4 August 2021.

3. Section 7 of the Extension and Expiry Act requires that the Scottish Government reports to the Scottish Parliament on the effect that the extension and expiry of provisions by this Act is likely to have on social care services.

4. This report contains the information required by sections 5 and 7.

5. Section 6 of the Extension and Expiry Act also requires that the Scottish Government’s bi-monthly reports which are required under section 15(1) of the Coronavirus Act 2020 include information about the operation of schedule 1 of that Act. Schedule 1 makes provision about evictions from dwelling houses. This information was included in the Scottish Government’s 8th Report on Coronavirus Legislation and will be included also in subsequent bi-monthly reports.

Report under section 5 of the Act – report on certain matters relating to the Act

1. Section 5(1)(a) - Marriage and civil partnership

1.1 Section 5(1)(a) of the Extension and Expiry Act requires the Scottish Ministers to report on progress being made towards marriage ceremonies and civil partnership registrations and associated celebratory events being able to be held without restrictions arising from the spread or incidence of Covid-19.

1.2 By virtue of section 5(2)(a) of the Extension and Expiry Act, the report must include information on the restrictions remaining in place as respects the holding of marriage ceremonies and civil partnership registrations and associated celebratory events.

Easing of restrictions

1.3 Since the Bill for the Extension and Expiry Act was passed by the Parliament, on 19 July 2021 all parts of Scotland not currently there moved to level 0 of the Strategic Framework¹ of protection levels.

1.4 At protection level 0, under guidance issued by the Scottish Ministers, up to 200 people could attend a wedding. The physical distance requirement indoors in public places between different household groups reduced to 1 metre. Outdoors in public places, groups of up to 15 people from up to 15 households were no longer required to maintain physical distance from each other. The relevant provisions of the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (the “Levels Regulations”)² on physical distancing were amended accordingly.

1.5 The “Levels Regulations” were revoked on 9 August 2021. A number of restrictions and requirements which affected marriage ceremonies, civil partnership registrations and associated celebratory events were thereby removed.

1.6 The Levels Regulations included a requirement that a person responsible for a place of worship, carrying on a business or providing a service must take measures to minimise the risk of exposure to Covid-19, including to ensure, as far as reasonably practicable, appropriate physical distancing between people from different households. The Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021 (the “new Regulations”)³ do not contain such a requirement: please see below for information on a requirement to have regard to guidance.

¹ [Coronavirus \(Covid-19\): Scotland's Strategic Framework update - June 2021 - gov.scot \(www.gov.scot\)](https://www.gov.scot)

² [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Regulations 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)

³ [The Health Protection \(Coronavirus\) \(Requirements\) \(Scotland\) Regulations 2021 \(legislation.gov.uk\)](https://legislation.gov.uk)

1.7 Legal restrictions on gatherings at private dwellings in the Levels Regulations which affected celebratory events in this setting were revoked and not replaced in the new Regulations.

1.8 Guidance published by the Scottish Government on the number of people who may attend marriage ceremonies, civil partnership registrations and receptions at each protection level of the Strategic Framework no longer applies. That guidance was withdrawn on 9 August 2021.

Continuing requirements

1.9 Under regulation 4 of the new Regulations, those responsible for a place of worship, carrying on a business or providing a service are required to continue to have regard to guidance issued by the Scottish Ministers about measures which should be taken to minimise exposure to Covid-19. We continue to publish guidance and information about good practice during the pandemic,⁴ including for hospitality businesses.⁵

1.10 Under regulation 5 of the new Regulations, there is a requirement to use face coverings in certain indoor public places, subject to exceptions. The places where face coverings must be worn include any indoor public place or part of an indoor public place where a marriage ceremony or civil partnership registration is taking place, including any restaurant, café, bar or public house for the duration of the ceremony or registration.

1.11 We have continued to make provision in the new Regulations for some exemptions from the requirement for face coverings in certain indoor places that are relevant to marriage and civil Partnerships and associated celebratory events.

1.12 The couple marrying or entering a civil partnership are exempt from wearing a face covering for the duration of the marriage ceremony or civil partnership registration. This is provided that the couple are able to maintain at least 1 metre from others present, or there is a screen or partition between them and others present. There is a similar exemption for the celebrant or local authority registrar leading the marriage ceremony or civil partnership registration.

1.13 If one of the couple is being accompanied down the aisle (or the equivalent), both they and the guest or guests accompanying them, do not require to wear a face covering at this point in the ceremony or registration.

1.14 From 9 August, those who are dancing indoors, including at a celebratory event associated with a marriage or civil partnership, can remove their face covering.

1.15 Under regulation 3 of the new Regulations, those responsible for relevant hospitality or entertainment premises must continue to take measures to

⁴ [Coronavirus in Scotland - gov.scot \(www.gov.scot\)](https://www.gov.scot)

⁵ [Coronavirus \(Covid-19\): tourism and hospitality sector - gov.scot \(www.gov.scot\)](https://www.gov.scot)

support Test and Protect,⁶ such as to ensure the collection of visitor contact details. This will include those affected premises hosting celebratory events associated with a marriage or civil partnership.

1.16 These requirements will continue to be regularly reviewed to ensure they remain proportionate.

2. Section 5(1)(b) – measures to help businesses

2.1 Section 5(1)(b)(i) requires Ministers to provide information about the Extension and Expiry Act on measures in place to help businesses to deal with the effects of disruption attributable to Covid-19.

2.2 By virtue of section 5(2)(b), the report must include information on the measures in place to help businesses deal with the effect of disruption attributable to Covid-19 and any plans for further measures the Scottish Ministers propose to put in place to help businesses.

Measures to help businesses

2.3 The Scottish Government is focused on optimising support for businesses while closed or restricted by regulations. With the easing of legal restrictions businesses can now trade. The Scottish Government recognises that even with the full reopening of the economy, this is still an extremely difficult time for many businesses across Scotland.

2.4 Since the start of the pandemic, businesses have directly benefitted from more than £3.7 billion in support: £2.8 billion in grants and £965 million through Covid -19 Non-Domestic Rates (NDR) reliefs.

2.5 The Scottish Government extended the anti-irritancy provisions in respect of commercial leases contained in the Act until 31 March 2022. This prevents tenants from being evicted for non-payment of rent for a period of 14 weeks as opposed to the pre-Covid requirement of 14 days' notice. This support works in conjunction with the Code of Practice for commercial property relationships to give sufficient time for landlords and tenants to come to mutually beneficial agreements as to rental reductions, holidays and deferrals or lease restructuring.

2.6 Consideration is also being given as to how to treat any accrued rental deficits, possibly through binding arbitration following legislation to be introduced by UK Government

Rateable Value based support for businesses in the Retail, Hospitality and Leisure Sectors

2.7 The majority of the financial support - £2.1 billion - made available to businesses since the outset of the pandemic has been distributed to those that operate from premises which are liable for NDR. This is due to the fact that

⁶ [Coronavirus \(Covid-19\): Test and Protect - gov.scot \(www.gov.scot\)](https://www.gov.scot/Topics/healthandcare/coronavirus/covid-19/test-and-protect)

businesses which pay NDR, specifically those in the retail, hospitality and leisure sectors, have been most directly impacted by Covid-19 having been subject to specific restrictions requiring them to either close or placing specific restrictions on their operations. The financial support made available to such businesses is not intended to cover costs or losses but to help them be resilient. That said, the levels of awards made available have varied depending on the size of the business and the scope and period of restrictions in place. Rateable Value based schemes that have been introduced since March 2020 include:

- Retail Hospitality and Leisure Grant and Small Business Grant Scheme (March 2020);
- Covid-19 Restrictions Closure and Hardship Fund (October 2020);
- Strategic Framework Business Fund (November 2020 – March 2021);
- Hospitality, Retail and Leisure Top up (January 2021); and
- Strategic Framework Business Fund Transitional Payment and Business Restart Grant (April 2021).

Non-Domestic Rates relief

2.8 The Scottish Government has extended 100% NDR relief for all retail, leisure, aviation and hospitality premises, for 2021-22, alongside other measures such as a reduction to the poundage. This is in addition to the 100% Rates Relief that the Scottish Government extended to businesses in receipt of the Small Business Bonus Scheme in the 2020/21 Financial Year and collectively ensures that Scotland offers the most generous NDR regime in the UK.

Sector-specific support

2.9 In addition to specific financial support schemes for businesses that pay NDR, the Scottish Government has also introduced a number of bespoke schemes for businesses and sectors that have experienced particular challenges as a result of Covid-19. This includes £100 million for culture and the creative industries, £42 million for tourism, £53 million for the wedding and events sectors and £22 million for food and drink.

2.10 In addition, £120 million was allocated to the Local Authority Discretionary Fund which enables local authorities to direct financial support to where it is needed most based on their assessment of the challenges faced by local economies and their business communities.

Future Business Support

2.11 The Scottish Government has used all of the consequentials allocated by the UK Government for the purpose of providing support to businesses impacted by Covid-19. Without further consequentials, the Scottish Government will be unable to provide further support to businesses experiencing ongoing financial challenges as a result of Covid-19.

3. Section 5(1)(b)(ii) - live music and live music venues

3.1 Section 5(1)(b)(ii) requires Ministers to provide their view of the effect of this Act on live music and live music venues.

Effect on live music and venues

3.2 While the Extension and Expiry Act does not directly affect live music or live music venues there have been a number of restrictions that have had an effect on live music and live music venues. These include the temporary closure of certain facilities (i.e., music rehearsal facilities) and live music venues. The reopening of these, particularly live music venues, has been further restricted by physical distancing restrictions and capacity limits.

3.3 Physical distancing has now been removed and most capacity limits no longer apply. The exceptions are for indoor events over 2000 people and outdoor events over 5000 people. A process is in place to allow event organisers to apply to a local authority for higher capacities.

4. Section 5(1)(b)(iii) - social security support for carers

4.1 Section 5(1)(b)(iii) requires Ministers to provide their view of the effect of the Extension and Expiry Act on social security support available for carers.

4.2 By virtue of section 5(2)(c), the report must include information on the social security support to help carers put in place for a reason related to Covid-19 and any plans for further social security support to help carers the Scottish Ministers propose to put in place for such a reason.

Coronavirus Carer's Allowance Supplement

4.3 "Carer's Allowance Supplement" (CAS) is a temporary top-up of Carer's Allowance until the Scottish Government takes on full delivery of Carer's Allowance. CAS was the first payment made by Social Security Scotland and increases Carer's Allowance by around 13%. The first payment was made in Autumn 2018.

4.4 The Coronavirus Act (Scotland) (No.2) Act 2020 modified the effect of section 81 of the Social Security (Scotland) Act 2018 to add an additional £230.10 to awards of CAS for the period from 1 April 2020 to 30 September 2020. This addition is known as the Coronavirus Carer's Allowance Supplement ('CCAS').

4.5 As a result of this a CCAS payment was made available to carers eligible for CAS in April 2020, doubling the additional support eligible carers received, and an extra investment of £19.2 million. Combined with our standard CAS payment, this means around 83,000 of Scotland's carers, on some of the lowest incomes and with the some of the most intense caring roles, have received up to £690.30 on top of their Carer's Allowance.

4.6 As part of the Coronavirus (Extension and Expiry) (Scotland) Act, these provisions will be expired at the end of 30 September 2021.

4.7 The CCAS provisions in the Coronavirus Act (Scotland) (No.2) Act allowed for the increased payment to be made during the period specified in the Act, which has now passed. We are content that backdating of this payment can continue beyond expiry of the provision on the basis that the Interpretation and Legislative Reform (Scotland) Act 2010 will protect individual rights acquired while the provision was in force. Therefore, the provision is no longer necessary in order to make backdated payments of the increased award of CAS for the period from 1 April 2020 to 30 September 2020.

4.8 The Carer's Allowance Supplement (Scotland) Bill was introduced to the Scottish Parliament on 22 June 2021. Subject to Parliamentary approval of the Bill, the Scottish Government will make an increased payment of £231.40 to carers eligible for the CAS in December 2021 in recognition of the additional caring responsibilities and associated strains and costs carers have had to meet as a result of the restrictions put in place to help tackle the pandemic.

4.9 Carer's Allowance Supplement, along with a number of other forms of assistance unaffected by the Coronavirus (Extension and Expiry) (Scotland) Act 2021, continue to be available to Carers,

Carer's Allowance Supplement

4.10 Beyond the additional payments legislated for in the Coronavirus Act (Scotland) (No.2) Act 2020 and the Carer's Allowance Supplement (Scotland) Bill, Carer's Allowance Supplement continues to be paid in two lump sums per year (each of £226.20 in 2019/20). One is paid in early summer (generally in June), and one in winter (generally in December), based on eligibility at specific eligibility dates in April and October. CAS was initially set at a level which would raise Carer's Allowance to the equivalent of the current rate of Jobseeker's Allowance for those 25 years old and over. However following uprating the combined payment now exceeds the rate of Jobseeker's Allowance.

4.11 Carers in Scotland who receive Carer's Allowance do not need to apply for CAS – if they are resident in Scotland, and in receipt of Carer's Allowance on the qualifying dates, they will receive the Supplement automatically.

4.12 574,020 CAS payments have been made to 119,945 carers since September 2018. Our combined investment in Carer's Allowance and CAS was around £358 million in 2020/21.

Carer's Allowance

4.13 Executive competence for administering Carer's Allowance, which is legislated for under section 70 of the Social Security Contributions and Benefits Act 1992, transferred to the Scottish Ministers in September 2018. Since this time, the Secretary of State for Work and Pensions ("the Secretary of State") has administered

Carer's Allowance on behalf of the Scottish Ministers pursuant to an agency agreement.

4.14 To be eligible for Carer's Allowance an individual must be 16 or over, spend at least 35 hours a week caring for a person who qualifies for specified disability benefits, meet the residence requirements, not be in full-time education or studying for 21 hours a week or more, not be subject to immigration control, and not earn more than £128 per week after tax, National Insurance and expenses⁷.

4.15 In February 2021, there were 82,031 carers in Scotland in receipt of Carer's Allowance.

Young Carer Grant

4.16 On 21 October 2019, Social Security Scotland began accepting applications for Young Carer Grant, a brand new benefit to support young people aged 16, 17 and 18. By 30 April 2021 the Scottish Government had invested £1.1 million into young carers.

4.17 The first of its kind in the UK, Young Carer Grant supports young people with a payment of £308.15 which can be applied for annually, to access life opportunities which are the norm for many of their peers. Since Social Security Scotland began taking applications on 21 October 2019, £1.1million has been invested in young carers through the Young Carer Grant.

4.18 Commissioned research, published in August 2021, reported that YCG had made a positive (albeit not necessarily a very large) impact on carers' mental wellbeing, mainly by reducing stress and increasing confidence.

Scottish Welfare Fund

4.19 The Scottish Welfare Fund provides a vital safety net for those on a low income, including carers. It can provide two types of support: Crisis Grants to help people facing a disaster or emergency; and Community Care Grants to help people to establish or maintain a home within their community. The Scottish Welfare Fund is administered and delivered by Local Authorities.

Wider carer support

4.20 In addition to social security support for carers, the Carers (Scotland) Act 2016 introduced the right for all carers to an adult carer support plan or young carer statement to identify each carer's personal outcomes and needs for support. The Scottish Government has accepted the recommendations of the Independent Review of Adult Social Care, many of which are designed to improve carer support, including the establishment of a National Care Service. The Scottish Government has committed to increase public investment in social care by 25% over this Parliament - so that by the end of the parliament we would have budgeted over £800 million of increased annual support for social care compared to current spending.

⁷ [Carer's Allowance: Eligibility - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/carer-s-allowance-eligibility)

4.21 Across government, we are committed to a number of other actions to support carers. This includes introducing a £1.4 million holiday voucher scheme which will provide thousands of breaks to carers, and disadvantaged young people and families on low incomes; investing in carer centres; and making sure carers are given information on the variety of support available to them.

5. Section 5(1)(b)(iv) - support to persons who are required to self-isolate for a reason relating to coronavirus

5.1 Section 5(1)(b)(iv) requires Ministers to provide their view of the effect of the Extension and Expiry Act on support available to persons who are required to self-isolate for a reason relating to coronavirus.

5.2 By virtue of section 5(2) (d), the report must include information on the support available to persons who are required to self-isolate for a reason relating to Covid-19 and any plans for further support for such persons the Scottish Ministers propose to put in place.

Support for persons required to self-isolate

5.3 The Social Care Staff Support Fund (“the Fund”) was established in June 2020 under the Social Care Staff Support Fund (Coronavirus) (Scotland) Regulations 2020, which in turn were made using powers in the Coronavirus (Scotland) (No. 2) Act 2020. The Fund was set up to ensure that eligible social care workers receive their expected income if they are off ill or self-isolating as a result of Covid-19.

5.4 The Fund, accessed via employers, prevents social care staff from experiencing financial hardship where they face restricted ability to work due to Covid-19 and loss of income where they are paid statutory sick pay or another amount that is less than their normal pay.

5.5 The Extension and Expiry Act extends the power for the Scottish Ministers to maintain the Fund and make regulations in relation to it until the end of March 2022 with the possibility for Ministers to extend that further until September 2022. The Extension and Expiry Act does not contain powers relating to support for self-isolation. The Extension and Expiry Act does not, in itself, change the support available to people under the Fund.

5.6 Beyond the Fund, the Extension and Expiry Act does not have any effect on support provided to people asked to self-isolate for reasons relating to Covid-19. Support for people who are asked to self-isolate is provided by other means or under other legislation.

5.7 For example, the principal source of financial support is provided through the Self-Isolation Support Grant (“SISG”). The SISG provides £500 for workers who will lose income as a result of self-isolating and are in receipt of Universal Credit or other low income benefits, earning the Real Living Wage or lower or whose family income is within 25% of Universal Credit rates. The SISG is delivered as part of the Scottish Welfare Fund, using powers under the Welfare Funds (Scotland) Act 2015.

5.8 Practical support continues to be available including support with access to food, essential medication or other local and voluntary services provided locally. In addition, the Scottish Government continues to fund the National Assistance Helpline and the Local Self-Isolation Assistance Service, ensuring pro-active and reactive phone calls to people self-isolating to ensure they can access practical and financial support they require whilst self-isolating.

5.9 As set out above, there is ongoing support for people who are asked to self-isolate, however this is not provided under Extension and Expiry Act. The Act does not, in itself, change the support available to people under the Fund.

6. Section 5(1)(b)(v), section 5(2) (e) and section 7 - social care services

Section 5(1)(b)(v) – effect of the Act on social care services

6.1 Section 5(1)(b)(v) requires Ministers to provide their view of the effect of the Extension and Expiry Act on social care services.

Care Homes - Emergency directions and emergency intervention orders (Section 2 and schedule 1: paragraphs 16 – 17 of the Coronavirus (Scotland) (No.2) Act 2020)

6.2 Section 2 of the Coronavirus (Scotland) (No 2) Act 2020 gives power to Health Boards to direct care home providers to take specific steps where they consider there is a material risk to health of persons within the specified care home due to Covid-19. These specified steps must relate directly to reducing the risk to the health of persons at the accommodation. Where the Health Board is not satisfied that the steps have been complied with, it can, subject to the Sheriff Court's approval, take steps to ensure they are carried out. The Sheriff may grant the warrant to enter the premises and take the specified steps only if satisfied that there are reasonable grounds for entering the care home and entry has been refused.

6.3 Ministers may apply to the court to appoint a nominated officer to temporarily enter, occupy and direct and control the provision of service at the care home and do anything the nominated officer considers necessary to ensure the service is provided to an appropriate standard. Such an order is an Emergency Intervention Order. The court must make the order if it appears to the court that, for a reason relating to Covid-19, there will be a serious risk to life, health or wellbeing within the home unless the order is made. Where the Scottish Ministers are satisfied that it is essential to do so for a reason relating to Covid-19 to prevent an imminent and serious risk to the life or health of persons at the care home, they can exercise the powers before making an application to the court. If Ministers do exercise these powers before going to court, they must seek an Emergency Intervention Order within 24 hours of having done so.

Powers to purchase care home services and care at home providers (Section 2 and schedule 1: paragraphs 18 to 21 of the Coronavirus (Scotland) (No.2) Act 2020)

6.4 Part 8 of Schedule 1 to the Coronavirus (Scotland) (No 2) Act 2020 sets out temporary powers available to local authorities to acquire, by agreement, a care

home or care at home services. It also sets out the powers available to relevant Health Bodies (a Health Board, the Common Services Agency and Health Improvement Scotland) to acquire a care home, by agreement, on behalf of the Scottish Ministers. Circumstances where this can take place are where, for a reason relating to Covid-19: the provider is in serious financial difficulty; the local authority or relevant health body (where relevant) 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.

Effect of provisions – care homes

6.5 The Extension and Expiry Act extends the operation of the Emergency Directions, Emergency Intervention Orders and Powers to purchase social care services provisions until 2022. In the view of the Scottish Ministers, the extension of these provisions recognises that Covid-19 is still circulating and that the above noted powers can be utilised if they are necessary to protect public health and safeguard the life, health and wellbeing of care homes residents and people who use social care services.

The use of such a power for example in the case of a failing care home service would mean that residents, many of whom may be frail, would not need to be moved to another care home thereby ensuring continuity of care.

The provisions have not been used to date, however their continuing availability provides a safety net and assurance while Covid-19 is still circulating that there are additional mechanisms in place should they be required.

6.6 Bi-monthly reporting on the use of these provisions will continue to be adopted.

Social care staff support fund - Social care staff support fund (Section 2 and schedule 1: paragraph 7 of the Coronavirus (Scotland) (No.2) Act 2020)

6.7 A description of the Social Care Staff Support Fund can be found at paragraphs 5.3 and 5.4.

Effect of Provisions – Social care staff support fund

6.8 The Extension and Expiry Act extends the power for the Scottish Ministers to maintain the Fund and make regulations in relation to it until the end of March 2022 with the possibility for Ministers to extend that further until September 2022. The Act does not, in itself, change the support available to people under the Fund.

Care homes – further provision

6.9 Paragraph 22 of schedule 1 of the Coronavirus (Scotland) (No. 2) Act 2020 requires that the Care Inspectorate must lay a report before the Scottish Parliament every two weeks during the emergency period. These reports must set out which care home services it has inspected in that two week period as well as the findings of those inspections.

6.10 Paragraph 23 introduces new duties about the reporting of deaths in care home services from or attributable to Covid-19. Care home service providers must provide certain information to the Care Inspectorate each day in relation to the numbers of deaths of residents in the care home from Covid-19, the number of deaths of residents in the care home which are suspected to be from Covid-19 and the number of deaths of residents in the care home, whether or not those are attributable to Covid-19.

6.11 The Extension and Expiry Act suspends these reporting duties at the end of 30 September 2021. The expectation is to safeguard the ability of the Care Inspectorate to discharge their statutory duties without hindering or diverting resources from wider scrutiny activity, including support to those care home services that fall short of the expected quality of care; and to ease the burden of weekly reporting on care home staff.

6.12 By suspending and not expiring these provisions, reassurance is provided that if there is a significant rise in Covid-19 cases in the future, and subsequently an adverse impact on care homes, that Scottish Ministers will have power under section 8 of the Coronavirus (Scotland) (No 2) Act 2020 to bring forward regulations to revive the original provisions, if there is clear evidence that this is necessary.

Section 5(2)(e) – Measures to restore social care services to 1 March 2020 level

6.13 By virtue of section 5(2)(e) the report must include information on the measures in place to restore social care services to their level as at 1 March 2020 and any plans for further measures the Scottish Ministers propose to put in place to secure this.

Financial support for social care sector

6.14 Financial support has been provided to the social care sector in order to support the remobilisation of services and to ensure safety is considered a priority at all times.

6.15 A total of £561 million was allocated to Integration Authorities for 2020-21, including funding for sustainability payments, in addition to wider social care support, for example for reducing delayed discharges, or for loss of income and for other staff costs. This included £112 million allocated to Integration Authorities as additional funding committed through the Adult Social Care Winter Preparedness Plan.

6.16 The Scottish Government has committed to providing funding for reasonable additional costs incurred by social care providers in line with the financial support for social care providers guidance, for costs such as additional staffing and non-staffing costs, recognising the exceptional efforts made by all who work in the sector to support people and providers during this period, and the need to support sustainability of the sector and the workforce.

6.17 The Social Care Staff Support Fund is also delivered through the Financial Support for Social Care Sector mechanism. The Social Care Staff Support Fund is discussed above.

Alignment with NHS remobilisation plans

6.18 The Scottish Government have encouraged NHS boards to ensure the remobilisation plans reflect how they are ensuring the effective remobilisation of Adult Social Care services and the continued support of the safe provision of these services.

6.19 The Scottish Government have provided a range of policy priorities for NHS boards to report on and will continue to monitor the plans to see how these priorities are being met and provide support to the boards as required.

Day service re-opening

6.20 Guidance to support the re-opening of adult social care building-based day services was published on 31st August 2020. This guidance is linked to a range of other national Covid guidelines - including guidance on PPE, physical distancing, and transport - which are updated regularly.

6.21 The Minister for Mental Wellbeing and Social Care wrote to the health and social care sector on 7th June 2021 to encourage the reopening of building-based day services. We are continuing to engage with Local Authorities and Health and Social Care Partnerships to support the remobilisation of these vital services for those who need them. These measures have seen the vast majority of day services and respite centres re-open across the country.

6.22 Staff testing and vaccination, plus the vaccination of people attending services, is also helping reduce risk levels in building-based support and so enabling their services to be restored safely.

Recruitment campaign

6.23 Attracting and retaining the right people, and raising the status of social care as a profession, is key to delivering quality care and building a sustainable workforce. In February 2021, the Scottish Government ran a second phase of the social care marketing campaign to address the recruitment and retention issues in the sector and build up a resilient, sustainable workforce. The Scottish Government is working closely with the sector to continue this, helping to attract more people into caring roles – through ongoing recruitment campaigns in MyJobScotland.

6.24 The Scottish Government has also committed to invest £50 million over the life of this Parliament to support the regulation and development of the social services workforce through the Scottish Social Services Council.

Wellbeing of the social care workforce

6.25 Over the past year, the Scottish Government has worked with partners to put in place a range of resources to support the mental health and wellbeing of our health and social care workforce. The National Wellbeing Hub (www.promis.scot) signposts staff, unpaid carers, volunteers and their families to relevant services, and provides a range of self-care and wellbeing resources designed to support the workforce. There is also a national wellbeing line for the health and social care workforce, based within NHS 24, which provides a 24/7 service to those who need further psychological support, including in light of the pandemic.

6.26 The Workforce Specialist Service (WSS) specialises in treating and supporting those who, due to their professional role, experience difficulty accessing confidential assessment and treatment for mental health. The Service covers staff groups across health and social care and, as such, is the most comprehensive service of its kind in the UK. It is delivered by a multi-disciplinary team of mental healthcare providers, and is supported by the continued delivery of digital wellbeing resources through the National Wellbeing Hub and the Helpline.

Supporting unpaid carers

6.27 During the pandemic a further £1.1 million was added last year to the annual £3 million voluntary sector Short Breaks Fund and the Scottish Government has committed an additional £570,000 this year, enabling more families/carers and young carers to take a break from caring. The Scottish Government has launched a £1.4 million holiday voucher scheme for tourism businesses to sign up to help low income families, unpaid carers and disadvantaged young people enjoy a break. The scheme will open for applications from these groups this Autumn.

Plans for further measures the Scottish Ministers propose to put in place

6.28 The Scottish Government plans to put in place several immediate measures to support social care services, as follows:

- **Recruitment:** The Scottish Government is working with social care partners to address long running recruitment and retention challenges in the sector, which are likely to have been exacerbated by the end of freedom of movement following the UK's exit from the EU, and the impact of the Covid-19 pandemic.

Furthermore, we are working closely with the social care sector to continue a social care recruitment marketing campaign. The campaign will run for at least three months in autumn 2021, and aims to attract more people into caring roles. The campaign will be supported by a streamlined process for pre-employment checks, as facilitated by Disclosure Scotland.

- **Workforce:** The Scottish Government wanted to ensure there was no delay in the annual uplift being received by the workforce, which is why we have agreed a national approach to implementing the Real Living Wage for adult social care workers for 2021/22. The Scottish Government has made clear

that, for the first time, union representatives should be involved in the discussions on the national care home contract.

The Social Care Staff Support Fund, the powers for which have been extended to the end of March 2022, ensures workers receive their expected income if ill or isolating as a result of Covid.

Work through the Fair Work in Social Care Implementation Group has now developed a set of recommendations for minimum standards for terms and conditions, and a minimum standards framework to enable effective voice for the workforce at a local level, reflecting key Fair Work principles.

- **Staff wellbeing:** The Scottish Government is working with NHS National Services Scotland on the long-term hosting arrangements for the stand-alone Workforce Specialist Service (WSS). As described above, WSS specialises in treating and supporting those who, due to their professional role, experience difficulty accessing confidential assessment and treatment for mental health.
- **SiRD:** The Scottish Government plans to extend the Support in the Right Direction (SiRD) programme into 2021-22 with £2.9m to ensure support and advocacy for those who have social care needs to help them access the social care they need, and to explore creative and flexible solutions

Section 7 report on social care services

6.29 Section 7(1) requires the Scottish Ministers to prepare and publish a report on the effect that the extension and expiry of provisions by the Extension and Expiry Act is likely to have on social care services. Section 7(2) requires that the report must set out in particular whether the Scottish Ministers consider that further measures are required to ensure the early restoration of the availability of social care support packages and respite services to at least the level available prior to 1 March 2020.

The effect that provisions by this Act is likely to have on social care services (section 7(1))

6.30 See the information provided above.

Whether the Scottish Ministers consider that further measures are required to ensure the early restoration of the availability of social care support packages and respite services (section 7(2))

6.31 Scottish Ministers do consider that further measures – both short and medium term measures – are required to ensure the early restoration of the availability of social care services. The measures proposed are described in the information provided above.

7. Section 5(1)(c) - the use of fiscal fines

7.1 Section 5(1)(c) of the Extension and Expiry Act requires the Scottish Ministers to report on the use of fiscal fines during the period beginning on 7 April 2020 and ending on the day of Royal Assent.

7.2 Section 5(2)(f)(i) and (ii) of the Extension and Expiry Act sets out the particular information the report should include in relation to use of fiscal fines, namely:

- the numbers of fiscal fines issued for each level on the scale during the period beginning on 7 April 2020 and ending on the day of Royal Assent, which is 4 August 2021; and
- the numbers of fiscal fines issued for each level of the scale in the period ending on 6 April 2020 which is of the same length as the period mentioned in subsection 5(1)(c). Accordingly, this period comprises 9 December 2018 to 6 April 2020.

Background

7.3 Section 1(2) and (3) of the Extension and Expiry Act extended the expiry of the provisions in Part 1 of the Coronavirus (Scotland) Act 2020 (“the 2020 Act”) from 30 September 2021 to 31 March 2022 and conferred on the Scottish Ministers a power to further extend the date on which the provisions in Part 1 of that Act expire to 30 September 2022.

7.4 The modifications in law to the justice system to which the extension period applies is set out in Schedule 4 of the 2020 Act.

7.5 Paragraph 7 of Schedule 4 of the 2020 Act amended section 302 of the Criminal Procedure (Scotland) Act 1995 raising the maximum level of conditional offer of a fixed penalty which may be offered by prosecutors (generally referred to as a “fiscal fine”) from £300 to £500.

7.6 Paragraph 7 also introduced a new fiscal fine scale to give practical effect to this measure. The new scale introduced by the 2020 Act contains seven fine levels, ranging from £50 to £500. The previous scale prescribed by the schedule of SSI 2008/108 (which is still in force and is only temporarily modified by paragraph 7) contains seven fine levels ranging from £50 to £300.

7.7 The increase in fiscal fine levels has enabled alternative action to prosecution to be taken in a wider range of summary cases, where such action is assessed as appropriate by prosecutors. In accordance with the revised policy guidance issued by the Lord Advocate in relation to fiscal fines, prosecutors have been 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.

7.8 It is considered that the higher levels of fiscal fine can continue to make a useful contribution to the “Recover, Renew, Transform” programme for the justice system post-pandemic, by enabling a wider range of cases to continue being dealt with by fiscal fine, thereby reducing the burden on the system by allowing criminal

courts to deal with more serious offending behaviour and continue responding to the backlog of cases during a time of significant resource pressure created by the impact of the pandemic, which is expected to last for a number of years beyond the lifting of restrictions on court business which were imposed in response to the pandemic.

Use of fiscal fines

7.9 The below table provides the number of individuals who have been offered a fiscal fine for each level on the scale as amended by the 2020 Act during the period 7 April 2020 to 4 August 2021.

Fiscal Fine Level	Total
FF Level 1 - £50	6,772
FF Level 2 - £125	6,022
FF Level 3 - £175	2,960
FF Level 4 - £250	1,732
FF Level 5 - £325	352
FF Level 6 - £400	127
FF Level 7 - £500	50
Total	18,015

7.10 Rows shaded in grey show fines above the previous maximum of £300, as introduced by the 2020 Act.

7.11 The below table provides the number of individuals who were offered a fiscal fine for each level on the previous scale during the period 9 December 2018 to 6 April 2020.

Fiscal Fine Level	Total
FF Level 1 - £50	289
FF Level 2 - £75	10,968
FF Level 3 - £100	4,108
FF Level 4 - £150	6,653
FF Level 5 - £200	2,516
FF Level 6 - £250	432
FF Level 7 - £300	308
Total	25,274



Scottish Government
Riaghaltas na h-Alba
gov.scot

© Crown copyright 2021

OGL

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-80201-339-9

Published by The Scottish Government, September 2021

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS932966 (09/21)

W W W . g o v . s c o t