

Coronavirus (Scotland) (No.2) Bill

Explanatory Notes

Introduction

1. As required under Rule 9.3.2A of the Parliament's Standing Orders, these Explanatory Notes are published to accompany the Coronavirus (Scotland) (No.2) Bill, introduced in the Scottish Parliament on 11 May 2020.
2. The following other accompanying documents are published separately:
 - a Financial Memorandum (SP Bill 71–FM);
 - a Policy Memorandum (SP Bill 71–PM);
 - Statements on legislative competence made by the Presiding Officer and the Scottish Government (SP Bill 71–LC).
3. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.
4. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

Purpose

5. The purpose of the Coronavirus (Scotland) (No.2) Bill (“the Bill”) is to respond to the emergency situation caused by the Covid-19 pandemic. The

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

Bill complements and supplements the Coronavirus Act 2020¹ (“the UK Act”), passed by the UK Parliament on 25 March 2020, and which the Scottish Parliament gave its consent to on 24 March 2020, and the Coronavirus (Scotland) Act 2020² (“the 2020 Act”), passed by the Scottish Parliament on 1 April 2020.

6. The coronavirus outbreak is a severe and sustained threat to human life in Scotland. The Scottish Government is committed to taking all steps necessary to address that threat. A severe pandemic could infect a large proportion of the population, and the public health measures required to control and limit the spread of the outbreak require business and public authorities to continue to operate very differently, for example, physical distancing policies, or requiring their workforce to work from home, where possible. In addition, the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020³ (S.S.I. 2020/103) (“the 2020 Regulations”) have required the closure of businesses selling food or drink for consumption on the premises, and of a wide range of other business set out in the regulations to protect against risks to public health. The 2020 Regulations also prohibit those living in Scotland from leaving the place where they live without reasonable excuse, and ban public gatherings of more than two people. The requirements and restrictions in the 2020 Regulations will continue until they are terminated by the Scottish Ministers by direction, or until they expire under regulation 11 of the 2020 Regulations.

7. The Scottish Government considers that in order for essential public services to continue to be able to discharge their functions in the way they were intended to, further changes need to be made to the way they operate and the way that they are regulated. In addition, the Scottish Government considers that further support and flexibility for business, and for those

¹ <http://www.legislation.gov.uk/ukpga/2020/7/contents>

² <http://www.legislation.gov.uk/asp/2020/7/contents>

³ <http://www.legislation.gov.uk/ssi/2020/103/contents/made>. These Regulations are amended by the Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment Regulations 2020 (S.S.I. 2020/106) and by the Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 2) Regulations 2020 (S.S.I. 2020/126).

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

using public services, is necessary to reflect the restrictions, in both guidance and legislation, on the way people live and work.

8. The Scottish Government also intends the Bill to address the needs of central and local government, and those involved in health and social care, in their response to the pandemic. In many cases, these services are continuing to plan for large numbers of their staff being unable to work due to following public health guidance, which can require self-isolation, due to increased levels of illness, or due to caring responsibilities increased by or associated with the coronavirus outbreak. In many cases, central and local government, the health and social care sector, and other public services are re-deploying substantial parts of their workforce temporarily, or re-prioritise work across their functions and responsibilities, in order to focus on work which responds to the coronavirus outbreak and which protects the health of people living and working in Scotland.

9. The Scottish Government considers that this continuing shift in resourcing and prioritisation requires additional obligations and duties on public services in Scotland to be adjusted, to reflect the importance which the Scottish Government places on responding to the coronavirus outbreak, and protecting the health of people living in Scotland.

Detail about provisions

Meaning of “coronavirus”

10. Section 1 contains the definition of “coronavirus”. This is the same definition as used for the UK Act and the 2020 Act.

Advancement of equality and non-discrimination

11. Section 6 provides that the Scottish Ministers must have regard to opportunities to advance equality and non-discrimination when exercising the functions contained in Part 1 of the Coronavirus (Scotland) (No.2) Bill.

Subordinate legislation making powers

12. Section 7 provides that powers to make subordinate legislation conferred by Part 1 of the Bill (which includes schedules 1 to 4) include the power to make ancillary provision.

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

Suspension, revival and expiry of the provisions of the Bill

13. Section 8 provides the Scottish Ministers with a power, by regulations, to suspend the effect of any provision in Part 1 of the Bill, and also to revive the effect of any suspended provision. This power allows a provision which is no longer, in the view of the Scottish Ministers, appropriate or proportionate, but which may become necessary to use again, to be temporarily suspended.

14. Section 9 provides for Part 1 of the Bill to expire on 30 September 2020, unless the Scottish Parliament approves regulations providing for its effect to continue until 31 March 2021. If the Scottish Parliament does approve such regulations, it may then approve regulations allowing one further, final extension until 30 September 2021, at which point any remaining provisions in the Act will expire. These are the same dates as set out in section 12 of the 2020 Act, meaning that the provisions of the Bill will be able to expire to the same timetable as the provisions of the 2020 Act.

15. Subsection (9) of section 9 allows the Scottish Ministers, by regulations, to make transitional, transitory, saving or consequential provision in connection with the expiry of provisions of the Bill. This will allow, for instance, the status in law of anything done under the provisions of the Act while it is in effect to be clarified if necessary for the period after the Bill expires.

16. Section 10 allows the Scottish Ministers, by regulations, to cause any provision in Part 1 of the Bill to expire earlier than set out above, where they are satisfied that the provisions are no longer appropriate or proportionate.

Reporting

17. Section 12 requires the Scottish Ministers to keep the necessity of the provisions in Part 1 of the Bill under review, and to report every two months on its assessment of that necessity, on the status of the provisions of the Bill, and on the use of the powers in the Bill.

18. The dates set out mean that the first reporting period for the provisions of the Bill will be the same as the second reporting period for the provisions of the 2020 Act – 31 July 2020. This means that the reporting

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

timetables for the 2020 Act and the Bill can be operated together, and at the same time.

Ancillary provision

19. Section 13 gives Scottish Minister the power, by regulations, to make ancillary provision for the purposes of, or in connection with, giving full effect to the Bill.

Commencement

20. Section 14 sets out that the Bill will come into force on the day after Royal Assent.

Schedule 1: protection of the individual

Student residential tenancy: termination by tenant

21. Paragraph 1 of schedule 1 defines a student residential tenancy as one which meets the conditions in paragraph 5(1) of schedule 1 of the Private Housing (Tenancies) (Scotland) Act 2016.

22. Paragraph 2 enables a person with a student residential tenancy to terminate the accommodation agreement with their landlord where certain requirements are met.

23. Paragraph 3 sets out the requirements that a notice to terminate a student residential tenancy must meet and the minimum notice periods that apply. These provisions mean that for a notice to be valid it must be in writing (this includes electronic communications) and it must state the day on which the tenancy is to end, which must be a day that is after the last day of the minimum notice period. The minimum notice periods that apply are 7 days (where the tenancy was entered into before the coming into force of this provision) and 28 days (in any other case).

Carer's allowance supplement

24. Paragraph 4 amends 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.

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

Bankruptcy

25. Paragraph 5 makes temporary modifications to section 26 of the Interpretation and Legislative Reform (Scotland) Act 2010 (“the 2010 Act”) as that section applies to documents which are authorised or required to be sent by or under the Bankruptcy (Scotland) Act 2016 (“the 2016 Act”).

26. Paragraph 5(2)(a) substitutes a new section 26(2)(c) of the 2010 Act with effect that a document may be transmitted to a person electronically.

27. Paragraph 5(2)(b) repeals existing section 26(3) of the 2010 Act which requires both the sender and the recipient of a document to agree in writing that the document may be transmitted electronically.

28. Instead, paragraph 5(2)(c) substitutes a new section 26(6) of the 2010 Act. New subsection (6)(a) provides that electronic transmission of a document must be effected in a manner that the recipient has indicated to the sender that they are willing to receive the document electronically. Subsection (6)(b) makes provision as to the circumstances in which willingness to receive a document electronically may be given or inferred. Subsection (6)(c) provides that uploading a document to an electronic storage system from where it may be downloaded by the recipient may constitute electronic transmission.

29. Paragraph 6 makes provision in relation to the criteria for determining whether a debtor who applies for sequestration under section 2 of the 2016 Act is eligible for the form of sequestration known as the minimal asset process (“MAP”).

30. Paragraph 6(2)(a) raises the threshold specified in section 2(2)(b)(ii) of the 2016 Act from £17,000 to £25,000. Debtors whose total debts fall within the upper and lower monetary thresholds specified in section 2(2)(b) of the 2016 Act are eligible for MAP.

31. Paragraph 6(2)(b) inserts a new subsection (2A) into section 2 of the 2016 Act. New subsection (2A) provides for debt arising from student loans to be disregarded for the purposes of determining whether the total of an individual’s debts falls within the monetary thresholds specified in section 2(2)(b) of the 2016 Act.

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

32. Paragraph 7 temporarily modifies the definitions of “qualified creditor” and “qualified creditors” in section 7(1) of the 2016 Act by raising the amount of money a creditor or a group of creditors must be owed in order to be “qualified” from £3,000 to £10,000. A qualified creditor has the right to petition the court for a debtor’s bankruptcy in terms of section 2(1)(b)(i) of the 2016 Act, where the debtor is apparently insolvent.

33. Paragraph 8 temporarily extends the period within which a trustee in sequestration must submit initial proposals for a debtor contribution order to the Accountant in Bankruptcy under section 90(2) of the 2016 Act from 6 weeks to 12 weeks. Paragraph 8(3) provides that the modification applies only where the date of the award of sequestration falls on or after the date on which paragraph 8 comes into force.

34. Paragraph 9 temporarily modifies paragraph 13 of schedule 6 of the 2016 Act to allow meetings of creditors to take place using electronic means. Paragraph 9(2)(b) makes consequential amendments.

35. Paragraph 10 modifies regulation 3 of the Bankruptcy (Scotland) Regulations 2016 (S.S.I. 2016/397) to allow the forms set out in schedule 1 of those Regulations to be signed with an electronic signature.

36. Paragraph 11 makes provision in relation to the fees which are payable where a debtor applies for sequestration under section 2(1)(a) of the 2016 Act.

37. Paragraph 11(2) inserts a temporary regulation 7A into the Bankruptcy Fees (Scotland) Regulations 2018 (S.S.I. 2018/127) (“the 2018 Regulations”). New regulation 7A creates an exemption from the fee that would otherwise be payable under entry 22(a) of the table of fees in the schedule of the 2018 Regulations where an individual applies for sequestration. The exemption applies to individuals whose only income at the date of their application for sequestration is from certain benefits.

38. Paragraph 11(3) reduces the fees specified in entry 22 of the table of fees in the schedule of the 2018 Regulations. The fee specified in entry 22(a) is payable by a MAP debtor to whom section 2(2) of the 2016 Act applies. The fee specified in entry 22(b) is payable by any other debtor. Paragraph 11(3) reduces these fees to £50 and £150 respectively.

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

Mental health

39. Section 250(2A) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”) provides that the nomination of a named person is only valid if a docket to the nomination states that the person nominated has consented to the nomination, the docket is signed by the nominated person, and the nominated person’s signature is witnessed by a prescribed person.

40. Paragraph 12 amends Section 250(2A) of the 2003 Act so that the nominated person’s signature will no longer require to be witnessed by a prescribed person.

Schedule 2: operation of the justice system

Criminal proceedings: extension of time limits

41. Paragraph 1 of schedule 2 makes provision to extend certain statutory time limits contained in the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) relating to criminal proceedings.

42. Paragraph 1(2) amends section 145 of the 1995 Act which provides the court with a power to adjourn a summary case at first calling for inquiry into the case, or for any other cause it considers reasonable for such period as it considers appropriate. It removes subsection 145(3) which provides that, where the accused has been remanded on bail or ordained to appear, no single period of adjournment shall exceed 28 days. The effect of this is that the court can adjourn a hearing of such a case for such a period as the court considers appropriate, without this limitation.

43. Paragraph 1(3) amends section 145A of the 1995 Act, which provides the court with a power to adjourn a case at first calling in a summary case where the accused is not present, to allow the accused to appear in answer to the complaint, or time for inquiry into the case, or for any other cause the court considers reasonable. It removes section 145A(3) which provides that no single period of adjournment shall exceed 28 days. The effect of this is that the court can adjourn a hearing of such a case for such a period as the court considers appropriate, without this limitation.

44. Paragraph 1(4) amends section 200 of the 1995 Act, which provides the court with a power to adjourn a case where an accused person has

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

been found to have committed an offence punishable by imprisonment to enable inquiry to be made into their physical or mental condition to assist in determining the most appropriate means of dealing with them.

45. Paragraph 1(4)(a) amends section 200(2) to remove the three week limit for which any single adjournment can be made. The effect of this is that the court can adjourn the case for such a period as the court thinks necessary to enable a medical examination and report to be made.

46. Paragraph 1(4)(b) amends section 200(3)(a) to remove the three week limit for which any single adjournment can be made in a case where the court is of the opinion, on the written or oral evidence of a medical practitioner, that the person appears to be suffering from a mental disorder and that the person ought to continue to be committed to hospital for the purpose of inquiry into their mental condition following the expiry of the period specified in an order for committal to hospital under section 200(2)(b). The effect of this is that the court can adjourn the case for such a further period as the court thinks necessary to enable a medical examination and report to be made.

47. Paragraph 1(5) amends section 245J of the 1995 Act, which provides the court with a power to adjourn a case where an offender appears to have failed to comply with a requirement of a community payback order, drug testing and treatment order or restriction of liberty order for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with them, by substituting a new subsection (3), which provides that the court may adjourn a hearing under section 245J(1) for such period as it considers appropriate. This temporarily replaces the existing power to adjourn a case for 4 weeks at a time, or 8 weeks on cause shown.

Arrangements for the custody of persons detained at police stations

48. Paragraph 2(1) allows the Scottish Ministers to make arrangements for the functions set out in sub-paragraph (2) to be performed by prisoner custody officers with escort functions.

49. The functions in sub-paragraph (2) are the transfer and custody of prisoners in police stations in connection with appearances before the court

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

by electronic means, and administrative functions connected with such appearances. Arrangements made under sub-paragraph (1) could therefore allow prisoner custody officers to be responsible for the custody of prisoners in police stations before, during or after their appearance before the court, so long as those functions are exercised in connection with the appearance of the prisoner before the court by electronic means. The arrangements could also allow prisoner custody officers to administer court papers and manage timetables for hearings.

50. Sub-paragraph (3) provides that the arrangements made by the Scottish Ministers may include entering into contracts with other persons for the provision of prisoner custody officers.

51. Paragraph 3 applies the relevant provisions of the Criminal Justice and Public Order Act 1994 and the Prisons and Young Offenders Institutions (Scotland) Rules 2011 (S.S.I. 2011/331), to the arrangements made under paragraph 2 as they apply to prisoner escort arrangements made under section 102(1) of the 1994 Act. It means, for example, that whenever a prisoner custody officer is responsible for the custody of a prisoner by virtue of arrangements made under paragraph 2, they have the powers and duties under section 104 of the 1994 Act in relation to that prisoner.

52. Paragraph 4 provides that a prisoner is not to be regarded as having been transferred out of police custody for the purposes of section 64(2)(cb) of the Criminal Justice (Scotland) Act 2016 where functions are performed in police stations by prisoner custody officers prior to the prisoner being brought before the court. The application of section 64 is otherwise unaffected, meaning that police custody ends when the prisoner appears before the court by electronic means.

Expiry of undertaking under section 25(2)(a) of the Criminal Justice (Scotland) Act 2016

53. Paragraph 6 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 ("the 2016 Act") when certain conditions are met.

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

54. Paragraph 6(2) makes a consequential amendment to section 29(1)(a) of the 2016 Act by introducing reference to new section 29A.

55. Paragraph 6(3) inserts a new section 29A into the 2016 Act, which deals with expiry of undertakings. The new section 29A enables the court to modify the terms of an undertaking given under section 25(2)(a) of the 2016 Act by changing the time at which the person who gave the undertaking is to appear at court where certain conditions are met, as set out in subsection (1). Where the court exercises this power, this has the effect of the undertaking and any conditions attached to it continuing until the newly specified time at which the person is to appear at court.

56. Those conditions are:

- the person has failed to appear at court as required by the terms of the undertaking,
- the court considers that the failure to appear is attributable to a reason related to coronavirus, and
- the court does not consider it appropriate to grant a warrant for the person's arrest on account of the failure to appear.

57. Subsection (2) requires the procurator fiscal to give notice, as soon as reasonably practicable, to the person who gave the undertaking that the terms of the undertaking have been modified, where the court makes such an order under subsection (1).

58. Subsection (3) prescribes the manner in which notice under subsection (2) must be effected and provides that the same requirements as in section 141 of the Criminal Procedure (Scotland) Act 1995 apply. This includes delivering the notice personally or leaving it at the person's home.

59. Subsection (4) provides that the references in subsection (1) to the terms of the undertaking include those modified by the procurator fiscal under section 27(1).

60. Subsection (5) provides that a reference in any enactment to the modification of the terms of an undertaking made by the procurator fiscal under section 27(1) is to be treated as including modification by the court under subsection (1).

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

Proceeds of crime: extension of permitted period for purpose of confiscation order

61. Paragraph 7 inserts a new subsection (4A) in section 99 (confiscation orders: postponement) of the Proceeds of Crime Act 2002 (“the 2002 Act”).

62. 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.

Proceeds of crime: time limits for payment of confiscation orders

63. Paragraph 8 makes provision in relation to the time limits for payment of confiscation orders as set out in section 116 of the 2002 Act.

64. Paragraph 8(2)(c) inserts new subsections (5A) and (5B) into section 116. When an application is made under section 116(4) to extend the specified period within which the sums due under the confiscation order must be paid, that extended period must not exceed twelve months from the day on which the confiscation order was made. New subsections (5A) and (5B), provide that, where the accused is unable to pay for a reason relating to coronavirus, the court may order that the extended period continue until such day as the court considers appropriate in the circumstances (i.e. the effect is that the twelve month restriction in section 116(5)(b) is disapplied).

65. Paragraph 8(2)(d) and (e) modify the effect of section 116(6) so that, where new subsection (5A) applies, an order under section 116(4) may be made after the end of the period of twelve months starting with the day on which the confiscation order is made (i.e. the effect is that the twelve month restriction in section 116(6)(b) is disapplied).

66. Paragraph 8(3) inserts a new section 116A to provide further time for payment due to coronavirus. New section 116A applies where the court has made an order under section 116(4) extending the specified period. It allows the accused to apply to the sheriff court for an order further extending the specified period. Where the court is satisfied that the accused is unable to pay for a reason relating to coronavirus, it may make an order further extending the specified period for such period as the court considers appropriate in the circumstances.

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

67. Paragraph 8 also makes provision in relation to the payment of interest on unpaid sums under a confiscation order, as set out in section 117 of the 2002 Act. Subsection (1) provides that interest must be paid on amounts required to be paid under a confiscation order if those amounts are not paid when they are required to be paid. Subsection (3) sets out circumstances where no amount is required to be paid for the purposes of section 117 (and so interest does not accrue).

68. Paragraph 8(4)(c) inserts new subsections (3A) and (3B) into section 117 to set out further circumstances where no amount is required to be paid. New subsection (3A) modifies section 117(3)(c) so that the twelve month restriction is disapplied where a section 116(4) application has been made on the basis of the accused's inability to pay for a reason relating to coronavirus. Subsection (3B) provides that no amount is required to be paid for the purposes of section 117 where an application has been made under new section 116A(2) for a further extension before the expiry of the period specified under section 116(4), and that application has not been determined by the court.

Replacement of requirement for intimation on walls of court, etc.

69. Paragraph 9(2)(a) inserts a new paragraph 1A into Part 1 of schedule 4 of the 2020 Act. The effect of paragraph 1A(1) is that where there is provision requiring or permitting a 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.

70. Paragraph 1A(2) confers a power on the Lord President or the Lord Justice General to direct that sub-paragraph (1) does not apply to a specified type of document.

71. Paragraph 1A(3)(a) provides that publication of a document on the SCTS website is to be done in accordance with any direction issued by the Lord President or the Lord Justice General. Paragraph 1A(4) makes it clear that any such direction may provide for a document to be made available in redacted form only.

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

72. Paragraph 1A(3)(b) ensures that any requirements pertaining to a document being displayed within a court building, such as specification of a time period for display, continue to apply to publication of the document on the SCTS website, subject to any necessary modifications.

73. Paragraph 1A(5) preserves the effect of provision for alternative method of publication, such as intimation by advertisement in a newspaper.

74. Paragraph 9(2)(b) modifies paragraph 5 of schedule 4 of the 2020 Act so as to require that any direction made under new paragraph 1A(2) or (3)(a) be made public.

Schedule 3: reports, accounts and other documents

Climate Change (Scotland) Act 2009

75. Paragraph 1 of schedule 3 amends the Climate Change (Scotland) Act 2009 (“the 2009 Act”).

76. Paragraph 1(2) amends section 8A(1) of the 2009 Act (inserted by section 17 of the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019) in relation to the date by which Scottish Ministers are required to have created a nitrogen balance sheet. This date is changed from 18 months to 24 months after the coming into force of section 8A of the 2009 Act.

77. Paragraph 1(3) amends section 32A(10) of the 2009 Act (inserted by section 9 of the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019), in relation to the date by which a citizens assembly on climate change is required to have completed its deliberations and reported to the Scottish Parliament and the Scottish Ministers. It provides that if the citizens assembly is unable, for a reason relating to coronavirus, to complete these functions by 28 February 2021, then it must do so as soon as reasonably practicable after that date.

Extension of deadline for accounts of registered social landlords

78. Paragraph 2 of schedule 3 amends section 70 of the Housing (Scotland) Act 2010.

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

79. Paragraph 2(2) disapplies the duty, in respect of the financial year ending with 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.

Public Finance and Accountability (Scotland) Act 2000

80. Paragraph 15(1) of schedule 6 of the 2020 Act provides that Scottish Ministers may by regulations make provision modifying the effect of the Public Finance and Accountability (Scotland) Act 2000 as it applies to accounts that are required under section 19 or 20 of that Act for the financial year ending with 31 March 2021.

81. Paragraph 3 amends the 2020 Act to allow amendments to be made to the Public Finance and Accountability (Scotland) Act 2000 in respect of the periods most likely to be affected by the coronavirus outbreak (i.e. financial years 2019/20 and 2020/2021), as part of the response to the accounting timetable disruption caused by the outbreak.

Referral of application for accommodation to another local authority: extension of deadline for Ministerial statement

82. Paragraph 4 makes provision to amend section 33B(1) of the Housing (Scotland) Act 1987 (“the 1987 Act”) to extend, by six months, the deadline for the Scottish Ministers to publish a statement on the circumstances and criteria for exercising the power in section 33A of the 1987 Act, relating to referrals between local authorities on the grounds of local connection. It has the effect of extending the deadline for publishing the statement to 18 months from the coming into force of section 33B(1) (on 7 November 2019).

83. Paragraph 4(2)(b) inserts new subsections (1A) and (1B) into section 33B of the 1987 Act to give the Scottish Ministers the power to make regulations further extending the period in section 33B(1) by up to six months on a one-off basis, should this be necessary.

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

Schedule 4: Other measures in response to coronavirus

UEFA European Championship

84. Paragraph 1 of schedule 4 modifies the UEFA European Championship (Scotland) Act 2020 (“the 2020 Act”).

85. Paragraph 1(2) modifies section 1 (meaning of key terms) of the 2020 Act. The definition of “Championship” is amended so that it may take place in a year other than 2020. The definition of “Championship period” is amended so as to be a period of not more than 42 days, ending not later than 31 December 2022, as specified by the Scottish Ministers in regulations. The trading and advertising offences created by the 2020 Act can only be committed during the Championship period.

86. Paragraph 1(3) amends section 3 of the 2020 Act, which contains an exception to the touting offence in section 2(1) of the 2020 Act. Section 3(2)(b)(i) of the 2020 Act is amended so that instead of being limited to England, Wales, Northern Ireland, or of a member State of the European Union, a charity based in any territory outwith Scotland may qualify for the exception, subject to meeting certain conditions.

87. Paragraph 1(3)(c) amends the conditions that a body established outwith Scotland must meet in order to qualify for the exception. It substitutes new subsections (3) and (4) for the existing subsection (3) of section 4 of the 2020 Act. New subsection (3) provides that a body qualifies for the exception if the body is registered in a register corresponding to the Scottish Charity Register. New subsection (4) provides that if there is no such register in the territory where the body is established then the body may qualify for the exception if its purposes consist only of one or more of the charitable purposes set out in section 7(2) of the Charities and Trustee Investments (Scotland) Act 2005 and the body provides public benefit within the meaning given by section 8 of that Act.

88. Paragraph 1(4) amends the repeal date of the 2020 Act so that it ceases to have effect on 31 December 2022 rather than on 31 December 2020.

This document relates to the Coronavirus (Scotland) (No.2) Bill (SP Bill 71) as introduced in the Scottish Parliament on 11 May 2020

Extension of period of listed building consent and conservation area consent

89. The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (“the 1997 Act”) requires listed building consent for works to listed buildings and conservation area consent for the demolition of buildings within conservation areas.

90. Paragraph 2(2) and (3) amends section 16 of the 1997 Act to extend the duration of a listed building consent or a conservation area consent that would otherwise lapse during the emergency period because works authorised by the consent have not begun. The emergency period is the period beginning with the coming into force of these provisions and ending on 6 October 2020. The changes made to section 16 apply to conservation area consent by virtue of section 66(3) of the 1997 Act. Consents to which the provision applies will instead lapse at the end of an extended period (which ends on 6 April 2021) unless works have commenced before the end of the extended period.

91. Paragraph 2(3) enables the Scottish Ministers to make regulations to amend the definition of the emergency and extended periods.

Register of Inhibitions

92. Paragraph 3 relates to the Register of Inhibitions and makes provision for registration or recording in that register to proceed on the basis of electronic submission of documents and copies of documents to the Keeper of the Registers.

93. Paragraph 3(1) sets out that this provision applies to documents where electronic submission is not already permitted in terms of paragraph 1(4) of schedule 4 of the 2020 Act. Taken together, these provisions ensure that all documents capable of being registered in the register can be proceed on the basis of a document submitted to the Keeper by electronic means.

94. Paragraph 3(2) and (5) provides that documents may be signed by way of a basic electronic signature construed in accordance with section 7(2) of the Electronic Communications Act 2000 but also includes a version of an electronic signature which is reproduced on a paper document.

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95. Sub-paragraph 3(4) sets out that these provisions apply when the means and form for electronic submission are specified as acceptable on the Keeper's website.

Register of judgments

96. Paragraph 4 relates to the Register of judgments and modifies Chapter 62 of the Act of Sederunt (Rules of the Court of Session 1994) 1994 (S.I. 1994/1443) for the duration the Act is in effect, making provision for registration and the issuing of documents to proceed on the basis of electronic submission to and by the Keeper of the Registers of documents and copies of documents.

97. Paragraph 4(2) introduces a new rule 62.102 which sets out that this provision applies to documents where electronic submission is not already permitted in terms of paragraph 1(4) of schedule 4 of the 2020 Act. Taken together, these provisions ensure that all documents capable of being registered in the register can be proceed on the basis of a document submitted to the Keeper by electronic means.

98. Paragraphs (2) and (6) of the new rule provide that documents may be signed by way of a basic electronic signature construed in accordance with section 7(2) of the Electronic Communications Act 2000 but also includes a version of an electronic signature which is reproduced on a paper document.

99. Paragraphs (3)(a) and (4) of the new rule also set out that the provisions relating to electronic submission to the register apply when the means and form for electronic submission are specified as acceptable on the Keeper's website.

100. Paragraphs (3)(b) and (5) of the new rule provide for Keeper to issue documents electronically in a manner agreed either expressly or inferred in relation to the recipient.

Land and buildings transaction tax: additional amount

101. Schedule 2A of the Land and Buildings Transaction Tax (Scotland) Act 2013 ("the 2013 Act") makes provision in relation to the additional dwelling supplement ("ADS") which is an additional amount paid as part of

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Land and Buildings Transaction Tax (“LBTT”) where certain criteria are met.

102. Paragraph 5(3) amends schedule 2A of the 21013 Act by extending the period within which a previous main residence can be sold and a repayment of the ADS claimed for certain transactions.

103. Paragraph 5(3)(a) inserts a new paragraph 8B into schedule 2A which provides that the transactions to which the extended period for disposal of a previous main residence applies to are those where the effective date of the transaction is between 24 September 2018 and 24 March 2020. For those transactions, the extended period for disposal of a previous main residence will be 27 months.

104. Paragraph 5(3)(b) inserts new sub-paragraphs (3A) to (3D) into paragraph 19 of schedule 2A. Sub-paragraph (3A) provides a power for Scottish Ministers to amend, by order, the period of 27 months. Sub-paragraph (3B) provides a power for the Scottish Ministers to amend, by order, the period of 24 September 2018 to 24 March 2020. Sub-paragraph (3C) provides that the powers may only be exercised where the Scottish Ministers are satisfied that it is appropriate to make the order for a reason related to coronavirus. Sub-paragraph (3D) provides that an order under sub-paragraph (3A) or (3B) may have retrospective effect.

Non-domestic rates relief

105. Paragraph 6 amends section 153 of the Local Government etc. (Scotland) Act 1994. That section allows the Scottish Ministers, for any financial year, by regulations to prescribe rules to determine the amount payable as non-domestic rate in respect of any lands and heritages.

106. Paragraph 6 inserts a new subsection (4A) into section 153. New subsection (4A) allows the Scottish Ministers, during the financial year 2020-21, to make regulations prescribing rules that reduce or remit the amount payable as non-domestic rate. 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).

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Coronavirus (Scotland) (No.2) Bill

Explanatory Notes

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