

Coronavirus (Scotland) Bill

[AS INTRODUCED]

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Coronavirus (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision in connection with coronavirus; and for connected purposes.

PART 1

MAIN PROVISIONS

Key expression

5
1 Meaning of “coronavirus”

In this Act, “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

Eviction from dwelling-houses

10
2 Eviction from dwelling-houses

Schedule 1 contains temporary modifications to the law in relation to the eviction of tenants from dwelling-houses.

Protection for debtors

15
3 Temporary extension of moratoriums on diligence

Schedule 2 contains provision for a temporary extension of certain moratoriums on diligence provided for in Part 15 of the Bankruptcy (Scotland) Act 2016.

Children and vulnerable adults

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4 Children and vulnerable adults

Schedule 3 contains temporary modifications to the law in relation to children and vulnerable adults.

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Schedule 4 contains temporary modifications to the law in relation to the justice system.

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Schedule 5 contains temporary modifications to the law in relation to alcohol licensing.

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Schedule 6 makes provision in relation to the functions of public bodies including temporary modifications of legislation.

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Schedule 7 contains other temporary measures in response to coronavirus.

PART 2

SUPPORTING PROVISIONS

9 Subordinate legislation making powers

Any power to make subordinate legislation conferred by virtue of Part 1 includes power to make—

- (a) incidental, supplementary, consequential, transitional, transitory or saving provision,
- (b) different provision for different purposes or areas.

10 Power to suspend and revive provisions

(1) The Scottish Ministers may by regulations—

- (a) suspend the operation of any provision of Part 1,
- (b) revive the operation of a provision so suspended.

(2) Sections 15 to 17 of the Interpretation and Legislative Reform (Scotland) Act 2010 apply to the suspension of a provision by regulations under subsection (1)(a) as if the provision had been repealed by an Act.

(3) The powers in subsection (1) may be exercised more than once in relation to the same provision.

(4) Regulations under this section—

- (a) may make different provision for different purposes or areas,
- (b) may make transitional, transitory or saving provision.

(5) Regulations under this section are subject to the negative procedure.

- (6) The High Court of Justiciary may by act of adjournal make transitional, transitory or saving provision in connection with the revocation of any act of adjournal made under paragraph 11(7) of schedule 4 resulting from the suspension of paragraph 11 of that schedule.

5 **11 Expiry**

- (1) Part 1 expires on 30 September 2020.
- (2) Subsection (1) is subject to section 12.
- (3) The Scottish Ministers may by regulations—
- 10 (a) amend subsection (1) so as to replace “30 September 2020” with “31 March 2021”,
- (b) further amend subsection (1) so as to replace “31 March 2021” with “30 September 2021”.
- (4) The power conferred by subsection (3)(b) may be used only after 30 September 2020.
- (5) Regulations under subsection (3) are subject to the affirmative procedure.
- 15 (6) Before laying a draft Scottish statutory instrument containing regulations under subsection (3) before the Scottish Parliament in accordance with section 29(2) of the Interpretation and Legislative Reform (Scotland) Act 2010, the Scottish Ministers must lay before the Parliament a statement of their reasons why the regulations should be made.
- 20 (7) Subsection (8) applies if the regulations are made in accordance with paragraph 23 of schedule 7.
- (8) The Scottish Ministers must, at the same time as laying the regulations before the Parliament in accordance with paragraph 26 of that schedule, lay before the Parliament a statement of their reasons for making the regulations.
- 25 (9) The Scottish Ministers may by regulations make transitional, transitory or saving provision in connection with the expiry under subsection (1) of any provision of this Act.
- (10) Regulations under subsection (9)—
- (a) may make different provision for different purposes or areas,
- 30 (b) are subject to the negative procedure.
- (11) The High Court of Justiciary may by act of adjournal make transitional, transitory or saving provision in connection with the revocation of any act of adjournal made under paragraph 11(7) of schedule 4 resulting from the expiry of paragraph 11 of that schedule.

35 **12 Power to bring forward expiry**

- (1) The Scottish Ministers may by regulations provide that any provision of Part 1—
- (a) does not expire at the time when it would otherwise expire (whether by virtue of section 11 or previous regulations under this section), and
- (b) expires instead at such earlier time as is specified in the regulations.
- 40 (2) Regulations under this section—

- (a) may make different provision for different purposes or areas,
 - (b) may make transitional, transitory or saving provision.
- (3) Regulations under this section are subject to the negative procedure.

13 Power to amend Act in consequence of amendments to subordinate legislation

- 5 (1) The Scottish Ministers may by regulations modify any provision of this Act which modifies the effect of a provision of subordinate legislation.
- (2) The power in subsection (1) may be exercised only if the modification is necessary in consequence of the modification of the provision of the subordinate legislation by other subordinate legislation.
- 10 (3) Regulations under subsection (1) may make transitional, transitory or saving provision.
- (4) Regulations under subsection (1) must be laid before the Scottish Parliament as soon as reasonably practicable after they have been made.
- (5) Regulations under subsection (1) cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, they are approved by resolution of the Scottish Parliament.
- 15 (6) In calculating the period of 28 days for the purpose of subsection (5), no account is to be taken of any period during which the Scottish Parliament is—
- (a) in recess for more than 4 days, or
 - (b) dissolved.
- 20 (7) If regulations cease to have effect as a result of subsection (5), that does not—
- (a) affect the validity of anything previously done under them, or
 - (b) prevent the making of new regulations.

14 Reports by the Scottish Ministers on status of provisions

- 25 (1) The Scottish Ministers must, in respect of each reporting period—
- (a) undertake a review of the operation of the provisions of Part 1 with a view to considering whether those provisions remain necessary, and
 - (b) prepare a report on that review.
- (2) A report prepared under subsection (1) must—
- (a) set out how any powers conferred by the provisions of Part 1 have been exercised, and
 - 30 (b) include—
- (i) the status of the provisions of Part 1 (whether or not any power under a provision has been exercised), and
 - (ii) a statement that the Scottish Ministers are satisfied that the status of those provisions is appropriate.
- 35 (3) The references in subsection (2) to the “status” of a provision are to—
- (a) whether the provision is in force at the end of the reporting period, and

(b) whether any power under the following provisions has been exercised by the Scottish Ministers in relation to it during that period (and, if so, which and how)—

- (i) section 10 (regulations suspending or reviving provision),
- (ii) section 12 (regulations altering expiry date of provision),
- (iii) section 16(2) (regulations bringing provision into force).

(4) Each of the following is a “reporting period”—

- (a) the period beginning with the day after Royal Assent and ending on 31 May 2020,
- (b) each successive period of 2 months that ends during the period before Part 1 of this Act expires by virtue of section 11(1).

(5) The Scottish Ministers must lay each report prepared under subsection (1) before the Scottish Parliament no later than 14 days after the end of a reporting period.

15 Ancillary provision

(1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, or in connection with, or for giving full effect to this Act or any provision made under it.

(2) Without prejudice to section 6 of the Interpretation and Legislative Reform (Scotland) Act 2010, the Scottish Ministers may by regulations modify any regulations made under subsection (1) in consequence of—

- (a) the exercise of a power under section 10,
- (b) the expiry of a provision of this Act under section 11,
- (c) the exercise of a power under section 12.

(3) Regulations under subsection (2) may make transitional, transitory or saving provision.

(4) Regulations under this section—

- (a) may modify the effect of any enactment (including this Act),
- (b) are subject to the negative procedure.

16 Commencement

(1) This Act comes into force on the day after Royal Assent, subject to subsection (2).

(2) Paragraph 11(1) of schedule 3 (and section 4 so far as it relates to that paragraph) comes into force on such day as the Scottish Ministers may by regulations appoint.

(3) The Scottish Ministers may by regulations make transitional, transitory or saving provision in connection with the coming into force of any provision of this Act.

17 Short title

The short title of this Act is the Coronavirus (Scotland) Act 2020.

SCHEDULE 1
(introduced by section 2)

EVICTION FROM DWELLING-HOUSES

Private residential tenancies: eviction grounds to be discretionary

- 5 1 (1) The Private Housing (Tenancies) (Scotland) Act 2016 applies, in relation to a notice to leave within the meaning of section 62 of that Act served on a tenant while this paragraph is in force, in accordance with the modifications in this paragraph.
- (2) Section 51(2) (First-tier Tribunal’s power to issue an eviction order) has effect as if the words “or must” were repealed.
- 10 (3) Schedule 3 (eviction grounds) has effect as if—
- (a) in paragraph 1(2) (landlord intends to sell)—
- (i) in the opening words, for the word “must” there were substituted “may”,
- (ii) after paragraph (a), the word “and” were repealed,
- (iii) after paragraph (b) there were inserted “, and
- 15 (c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,
- (b) in paragraph 2(2) (property to be sold by lender)—
- (i) in the opening words, for the word “must” there were substituted “may”,
- (ii) after paragraph (b), the word “and” were repealed,
- 20 (iii) after paragraph (c) there were inserted “, and
- (d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,
- (c) in paragraph 3(2) (landlord intends to refurbish)—
- (i) in the opening words, for the word “must” there were substituted “may”,
- 25 (ii) after paragraph (b), the word “and” were repealed,
- (iii) after paragraph (c) there were inserted “, and
- (d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,
- (d) in paragraph 4(2) (landlord intends to live in property)—
- 30 (i) for the word “must” there were substituted “may”,
- (ii) the words from “the landlord” to “3 months” were paragraph (a),
- (iii) after paragraph (a) there were inserted “, and
- (b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.”,
- 35 (e) in paragraph 6(2) (landlord intends to use for non-residential purpose)—
- (i) for the word “must” there were substituted “may”,
- (ii) the words from “the landlord” to “home” were paragraph (a),
- (iii) after paragraph (a) there were inserted “, and

(b) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact.”,

(f) in paragraph 7(2) (property required for religious purpose)—

(i) in the opening words, for the word “must” there were substituted “may”,

(ii) after paragraph (b) the word “and” were repealed,

(iii) after paragraph (c) there were inserted “, and

(d) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,

(g) in paragraph 8 (not an employee)—

(i) in the opening words of sub-paragraph (2), for the word “must” there were substituted “may”,

(ii) for paragraph (c) there were substituted—

“(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,

(iii) sub-paragraph (3) were repealed,

(iv) in sub-paragraph (4), for the words “sub-paragraphs (2) and (3)” there were substituted “sub-paragraph (2)”,

(h) in paragraph 10(2) (not occupying let property)—

(i) in the opening words, for the word “must” there were substituted “may”,

(ii) after paragraph (a), the word “and” were repealed,

(iii) after paragraph (b) there were inserted “, and

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”,

(i) in paragraph 12 (rent arrears), sub-paragraph (2) were repealed,

(j) in paragraph 13(2) (criminal behaviour)—

(i) in the opening words, for the word “must” there were substituted “may”,

(ii) after paragraph (a), the word “and” were repealed,

(iii) after paragraph (b) there were inserted “, and

(c) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts.”.

Private residential tenancies: extension of notice periods

2 (1) The Private Housing (Tenancies) (Scotland) Act 2016 applies, in relation to a notice to leave within the meaning of section 62 of that Act served on a tenant while this paragraph is in force, in accordance with the modifications in this paragraph.

35 (2) Section 54 (restriction on applying during the notice period) has effect as if for subsections (2) and (3) there were substituted—

“(2) The relevant period in relation to a notice to leave—

(a) begins on the day the tenant receives the notice to leave from the landlord, and

(b) expires on the day falling—

- (i) 28 days after it begins if subsection (3) applies,
- (ii) three months after it begins if subsection (3A) applies,
- (iii) six months after it begins if neither subsection (3) nor (3A) applies.

(3) This subsection applies if the only eviction ground stated in the notice to leave is that the tenant is not occupying the let property as the tenant's home.

(3A) This subsection applies if—

(a) the only eviction ground, or grounds, stated in the notice to leave is, or are, one or more of the following—

- (i) that the landlord intends to live in the let property,
- (ii) that a member of the landlord's family intends to live in the let property,
- (iii) that the tenant has a relevant conviction,
- (iv) that the tenant has engaged in relevant anti-social behaviour,
- (v) that the tenant associates in the let property with a person who has a relevant conviction or has engaged in relevant anti-social behaviour,
- (vi) that the landlord is not registered by the relevant local authority under the Antisocial Behaviour etc. (Scotland) Act 2004,
- (vii) that the let property or associated living accommodation is in multiple occupation and not licensed under Part 5 of the Housing (Scotland) Act 2006, or

(b) the only eviction grounds stated in the notice to leave are—

- (i) the eviction ground mentioned in subsection (3), and
- (ii) an eviction ground, or grounds, mentioned in paragraph (a)."

(3) Section 64 (six month periods) has effect as if for it there were substituted—

“64 Three or six month periods

(1) A reference in this Part to a period of three or, as the case may be, six months (however expressed) is to a period which ends in the month which falls three or, as the case may be, six months after the month in which it began, either—

- (a) on the same day of the month as it began, or
- (b) if the month in which the period ends has no such day, on the final day of that month.

(2) Subsection (1) does not apply in relation to the references to six months in section 59.”

Assured tenancies: eviction grounds to be discretionary

3 (1) The Housing (Scotland) Act 1988 applies, in relation to a notice served on a tenant under section 19 or 33(1)(d) of that Act while this paragraph is in force, in accordance with the modifications in this paragraph.

- 5 (2) Section 18 (orders for possession) has effect as if—
- (a) subsections (3) and (3A) were repealed,
 - (b) in subsection (4), for “Part II” there were substituted “Part I or Part II”,
 - (c) in subsection (4A), after the word “possession” there were inserted “on Ground 8 in Part I of Schedule 5 to this Act or”.
- (3) Section 20 has effect as if subsection (6) (no discretion where landlord entitled to possession) were repealed.
- (4) Section 33 (recovery of possession on termination of a short assured tenancy) has effect as if in subsection (1)—
- 10 (a) in the opening words, for the word “shall” there were substituted “may”,
- (b) after paragraph (b), the word “and” were repealed,
- (c) after paragraph (d) there were inserted “, and
- (e) that it is reasonable to make an order for possession.”.
- 15 (5) Schedule 5 (grounds for possession of houses let on assured tenancies) has effect as if for the heading of Part I there were substituted “Certain grounds on which First-tier Tribunal may order possession in relation to the period of the Coronavirus (Scotland) Act 2020”.

Assured tenancies: extension of notice periods

- 4 (1) The Housing (Scotland) Act 1988 applies, in relation to a notice served on a tenant under section 19 or 33(1)(d) of that Act while this paragraph is in force, in accordance with the modifications in this paragraph.
- 20 (2) Section 19 (notice of proceedings for possession) has effect as if—
- (a) in subsection (3)(b), for the words “two weeks or two months” there were substituted “two months, three months or, as the case may be, six months”,
 - (b) for subsection (4) there were substituted—
- 25 “(4) The minimum period to be specified in a notice as mentioned in subsection (3)(b) is—
- (a) two months if the notice specifies only Ground 9 in Part II of Schedule 5 to this Act,
 - (b) three months if the notice specifies any of the following grounds in Schedule 5 to this Act (whether with or without also specifying the ground referred to in paragraph (a))—
- 30 (i) Ground 1 in Part I,
- (ii) Ground 15 in Part II,
- 35 (c) six months if the notice specifies any of the following grounds in Schedule 5 to this Act (whether with or without other grounds)—
- (i) Grounds 2 to 8 in Part I,
 - (ii) Grounds 10 to 14 in Part II,
 - (iii) Ground 16 or 17 in Part II.”.

- (3) Section 33 (recovery of possession on termination of a short assured tenancy) has effect as if, in subsection (2), for the words “two months” in both places where they appear there were substituted “six months”.

Tenancies under the Rent (Scotland) Act 1984: eviction grounds to be discretionary

- 5 (1) The Rent (Scotland) Act 1984 applies, in relation to a notice served on a tenant in accordance with section 112(1) of that Act while this paragraph is in force, in accordance with the modifications in this paragraph.
- (2) Section 11 (grounds for possession of certain dwelling-houses) has effect as if—
- 10 (a) in subsection (1)(b), after the words “Part I” there were inserted “or Part II”,
- (b) subsection (2) were repealed.
- (3) Section 12 (extended discretion of court) has effect as if—
- (a) in subsection (1), the words “Subject to subsection (5) below,” were repealed,
- (b) in subsection (2), the words “, subject to subsection (5) below,” were repealed,
- (c) subsection (5) were repealed.
- 15 (4) Section 14 (conditions applying to recovery of short tenancies) has effect as if, in subsection (1), after the word “Act” there were inserted “provided the First-tier Tribunal considers it reasonable to allow such recovery”.
- (5) Schedule 2 (grounds for possession for protected or statutory tenancies) has effect as if for the heading of Part II there were substituted “Certain cases in which First-tier Tribunal may order possession in relation to the period of the Coronavirus (Scotland) Act 2020”.
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Tenancies under the Rent (Scotland) Act 1984: extension of notice periods

- 6 (1) The Rent (Scotland) Act 1984 applies, in relation to a notice served on a tenant in accordance with section 112(1) of that Act while this paragraph is in force, in accordance with the modifications in this paragraph.
- 25 (2) Section 14 (conditions applying to landlord’s right to recovery of possession of a short tenancy) has effect as if, in subsection (2), for the words “three nor more than six” there were substituted “six nor more than nine”.
- (3) Section 112 (minimum length of notice to quit) has effect as if—
- 30 (a) in subsection (1), for the words “given not less than four weeks before the date on which it is to take effect” there were substituted “given—
- (a) in the case of a notice by a landlord, not less than the specified amount of time before the date on which it is to take effect,
- (b) in the case of a notice by a tenant, not less than four weeks before the
- 35 date on which it is to take effect”,
- (b) after subsection (1) there were inserted—
- “(1A) A notice given by a landlord in accordance with subsection (1) must state, in addition to any other information that is prescribed under subsection (1), the basis on which the landlord intends to seek possession of the dwelling-house.
- 40 (1B) For the purpose of subsection (1)(a), the specified amount of time is—

- (a) 4 weeks if subsection (1C) applies,
- (b) 3 months if subsection (1D) applies,
- (c) 6 months if subsection (1E) applies.

5 (1C) This subsection applies if the notice under subsection (1) specifies that possession is sought only in accordance with section 11(1)(a) on the basis that suitable alternative accommodation is available, or will be available, for the tenant.

10 (1D) This subsection applies if the notice under subsection (1) specifies that possession is sought only on the basis that the circumstances are as specified in one or more of the following Cases in Schedule 2—

- (a) Case 2,
- (b) Case 6,
- (c) Case 8 or 9,
- (d) Case 11.

15 (1E) This subsection applies if the notice under subsection (1) specifies that possession is sought on the basis that the circumstances are as specified in one or more of the following Cases in Schedule 2 (whether with or without specifying any other Cases)—

- (a) Case 1,
- 20 (b) Cases 3 to 5,
- (c) Case 7,
- (d) Case 10,
- (e) Cases 12 to 21.”.

Scottish secure tenancies: extension of notice periods

25 7 (1) The Housing (Scotland) Act 2001 applies, in relation to a notice served on a tenant under section 14(2)(a) or 36(2)(a) of that Act while this paragraph is in force, in accordance with the modifications in this paragraph.

(2) Section 14 (proceedings for possession) has effect as if—

(a) for subsection (4)(b)(i) there were substituted—

30 “(i) the date calculated in accordance with subsection (4A), or”,

(b) after subsection (4) there were inserted—

“(4A) For the purpose of subsection (4)(b)(i), the date is the date falling—

- (a) 4 weeks after the date of service of the notice if subsection (4B) applies,
- (b) 3 months after the date of service of the notice if subsection (4C) applies,
- 35 (c) 6 months after the date of service of the notice if subsection (4D) applies.

(4B) This subsection applies if the notice under subsection (2) specifies only the ground set out in paragraph 5 of schedule 2.

(4C) This subsection applies if the notice under subsection (2) specifies a ground set out in any of the following paragraphs of schedule 2 (whether with or without also specifying the ground referred to in subsection (4B))—

- (a) paragraph 2,
- (b) paragraphs 6 to 8.

(4D) This subsection applies if the notice under subsection (2) specifies a ground set out in any of the following paragraphs of schedule 2 (whether with or without other grounds)—

- (a) paragraph 1,
- (b) paragraph 3 or 4,
- (c) paragraphs 9 to 15.”.

(3) Section 36 (recovery of possession of short Scottish secure tenancies) has effect as if—

(a) for subsection (3)(b)(i), there were substituted—

“(i) the date calculated in accordance with subsection (3A), or such longer period from the date of service of the notice as the tenancy agreement may provide, or”,

(b) after subsection (3) there were inserted—

“(3A) For the purpose of subsection (3)(b)(i), the date is the date falling—

- (a) 2 months from the date of service of the notice if subsection (3B) applies,
- (b) 6 months from the date of service of the notice if subsection (3C) applies.

(3B) This subsection applies if the tenancy is a short Scottish secure tenancy by virtue of section 35 or paragraph 1, 2 or 2A of schedule 6.

(3C) This subsection applies if the tenancy is a short Scottish secure tenancy by virtue of any of paragraphs 3 to 7A of schedule 6.”,

(c) in subsection (8), for the words which are to be read as if they were substituted for paragraph (b) of section 14(4) there were substituted—

“(b) a date, not earlier than the date calculated in accordance with subsection (4A), on or after which the landlord may raise proceedings for recovery of possession.”.

Power to modify notice periods

8 (1) The Scottish Ministers may by regulations—

- (a) modify a reference to any period of time which is for the time being specified in any of paragraphs 2, 4, 6 and 7,
- (b) modify how grounds for possession (however described) are grouped in any of paragraphs 2, 4, 6 and 7 for the purpose of determining which notice period applies,
- (c) make consequential modifications to paragraph 9.

- (2) But the power in sub-paragraph (1) may not be exercised so as to result in a period of time being specified that is in excess of six months.
- (3) Sub-paragraph (1) applies to references to periods of time and grounds for possession (however described) whether or not they are contained in text which is to be treated as if inserted or substituted into another enactment.
- (4) Regulations under sub-paragraph (1) are subject to the negative procedure.

Consequential modifications in relation to prescribed forms

9 (1) The Private Residential Tenancies (Prescribed Notices and Forms) (Scotland) Regulations 2017 (S.S.I. 2017/297) are to be read, in relation to a notice to leave within the meaning of section 62 of the Private Housing (Tenancies) (Scotland) Act 2016 served on a tenant while paragraph 2 is in force, as if—

(a) in schedule 5 (notice to leave)—

- (i) in the text preceding Part 1, for “84 days’ notice, depending on how long you have occupied the Let Property and” there were substituted “three or six months’ notice, depending on”,
- (ii) in Part 1, the words “The tenant(s) has lived in the property since:” were deleted, together with the space for completion immediately following it,
- (iii) in Part 4, for the words “(28 days or 84 days depending on the eviction ground or how long you have occupied the Let Property).” there were substituted “(normally 3 months or 6 months, depending on the ground on which eviction is being sought, but this will be 28 days if eviction is being sought on the ground that you are no longer occupying the Let Property).”,

(b) in schedule 6 (sub-tenancy notice to leave)—

- (i) in the text preceding Part 1, for the words “if you have lived in the property for six months or less or 84 days’ notice if you have lived in the property for more than six months.” there were substituted “and may be required to give you three or six months’ notice, depending on the grounds on which they intend to apply for eviction.”,
- (ii) in Part 1, the words “The Sub-Tenant(s) has lived in the property since:” were deleted, together with the space for completion immediately following it,
- (iii) in Part 4, for the words “(28 days or 84 days depending on how long you have occupied the property).” there were substituted “(normally 3 months or 6 months, depending on the ground on which eviction is being sought, but this will be 28 days if eviction is being sought on the ground that you are no longer occupying the Let Property).”.

(2) The Rent Regulation and Assured Tenancies (Forms) (Scotland) Regulations 2017 (S.S.I. 2017/349) are to be read, in relation to a notice served on a tenant under section 19 or 33(1)(d) of the Housing (Scotland) Act 1988 while paragraph 4 is in force, as if in the schedule, in Form AT6 (notice under section 19 of intention to raise proceedings for possession), for the note 3 to the tenant on Part 3 there were substituted the following—

“Your landlord must give you proper notice between serving this notice and raising proceedings in the Tribunal. If only ground 9 applies, two months’ notice must be given. If only grounds 1 or 15 apply, or if grounds 1 or 15 apply together with ground 9, three months’ notice must be given. If any of grounds 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 16 or 17 apply, with or without any other grounds, six months’ notice must be given.”.

- (3) The Short Scottish Secure Tenancies (Proceedings for Possession) Regulations 2018 (S.S.I. 2018/155) are to be read, in relation to a notice served on a tenant under section 36(2)(a) of the Housing (Scotland) Act 2001 while paragraph 7 is in force, as if in schedule 2 (notice under section 36 of intention to raise proceedings for possession), in note 3 to the tenant for the words “2 months’ notice” there were substituted “6 months’ notice”.

Errors in notices

- 10 (1) Where a notice to which this paragraph applies is completed without taking proper
15 account of paragraphs 1 to 9—
- (a) the notice is not invalid by reason of that error, but
 - (b) it may not be relied upon by the landlord for the purpose of seeking an order for possession (however described) until the date on which it could have been relied upon had it been correctly completed.
- 20 (2) Where sub-paragraph (1) applies, the period for which the notice remains in force for the purpose of seeking an order for possession (however described) is to be calculated by reference to the period which would have applied had the notice been correctly completed.
- (3) This paragraph applies to—
- 25 (a) a notice to leave within the meaning of section 62 of the Private Housing (Tenancies) (Scotland) Act 2016 served on a tenant,
 - (b) a notice served on a tenant under section 14(2)(a) or 36(2)(a) of the Housing (Scotland) Act 2001,
 - 30 (c) a notice served on a tenant under section 19 or 33(1)(d) of the Housing (Scotland) Act 1988,
 - (d) a notice served on a tenant in accordance with section 112(1) of the Rent (Scotland) Act 1984,

while this paragraph is in force.

SCHEDULE 2

(introduced by section 3)

TEMPORARY EXTENSION OF MORATORIUMS ON DILIGENCE

- 1 The Bankruptcy (Scotland) Act 2016 applies in accordance with the modifications in this schedule.
- 2 Section 195 (moratorium on diligence: notice of intention to make debtor application under section 2(1)(a)) has effect as if subsection (2) were repealed.

3 Section 196 (moratorium on diligence: notice of intention to make debtor application
under section 6) has effect as if subsection (2) were repealed.

4 Section 198 (period of moratorium) has effect as if—

(a) for “6 weeks” in each of the following there were substituted “6 months”—

5 (i) subsection (1)(b)(i),

(ii) subsection (3),

(iii) subsection (5),

(iv) subsection (7),

10 (b) in subsection (6)(b), for “13 weeks after the day on which the moratorium began
under subsection (1)(a)” there were substituted “7 weeks after the day on which
the moratorium would have ended but for this subsection”.

SCHEDULE 3
(introduced by section 4)

CHILDREN AND VULNERABLE ADULTS

15 **PART 1**

CHILDREN

Requirements as to members of children’s hearings

1 (1) The Children’s Hearings (Scotland) Act 2011 applies in accordance with the
modifications in sub-paragraphs (2) to (4).

20 (2) Section 5 (children’s hearing) has effect as if—

(a) the existing text were subsection (1),

(b) after that subsection there were inserted—

“(2) But a children’s hearing may consist of fewer than three members where it is
not practicable for the children’s hearing to consist of three members.”.

25 (3) Section 6(3) (selection of members of children’s hearing) has effect as if at the
beginning of paragraph (a) there were inserted “so far as practicable,”.

(4) Section 79 (referral of certain matters for pre-hearing determination) has effect as if
after subsection (2) there were inserted—

30 “(2A) A pre-hearing panel may consist of fewer than three members where it is not
practicable for the pre-hearing panel to consist of three members.”.

(5) The Children’s Hearings (Scotland) Act 2011 (Safeguarders: Further Provision)
Regulations 2012 (S.S.I. 2012/336) apply in accordance with the modification in sub-
paragraph (6).

35 (6) Regulation 9(2)(d) (access to safeguarder reports) has effect as if for “the three
members” there were substituted “the members”.

(7) The Children’s Hearings (Scotland) Act 2011 (Rules of Procedure in Children’s
Hearings) Rules 2013 (S.S.I. 2013/194) apply in accordance with the modifications in
sub-paragraphs (8) and (9).

- (8) Rule 3(2) (selection of members of pre-hearing panel) has effect as if in sub-paragraph (a) there were inserted at the beginning “so far as practicable,”.
- (9) Each of the following rules has effect as if for “the three members” there were substituted “the members”—

5 rule 25,
 rule 26(4)(d),
 rule 28(1) and (2),
 rule 29(3)(e),
 rule 30(3)(d),
 10 rule 32(1),
 rule 33(3)(e),
 rule 35(1),
 rule 36(3)(e),
 rule 39(3)(g),
 15 rule 40(2)(h),
 rule 41(3)(d),
 rule 42(2)(h),
 rule 43(3)(d),
 rule 44(2)(d),
 20 rule 45(2)(f),
 rule 46(2)(d),
 rule 46A(2)(d),
 rule 52(2)(f),
 rule 56(3)(a),
 25 rule 71(2)(h),
 rule 76(2)(d),
 rule 94(3)(g).

Child assessment and child protection orders

- 2 (1) The Children’s Hearings (Scotland) Act 2011 (“the 2011 Act”) applies in accordance
 30 with the modifications in sub-paragraphs (2) to (6).
- (2) Section 35(5) (period for which child assessment order has effect) has effect as if—
 (a) in paragraph (a), for “24 hours” there were substituted “48 hours”,
 (b) in paragraph (b), for “3 days” there were substituted “5 days”.
- (3) The 2011 Act has effect as if sections 45 to 47 (review of child protection order at two
 35 working days) were repealed.

(4) Section 48(3) (period within which application for variation or termination of child protection order may be made) has effect as if for paragraphs (a) and (b) there were substituted “within the period beginning on the day on which the order is made and ending on the seventh working day after—

5 (a) where the child has been removed to a place of safety by virtue of an authorisation of the type mentioned in section 37(2)(b), the day on which the child was so removed,

(b) in any other case, the day on which the order was made.”.

(5) Section 51 (determination of application under section 48) has effect as if—

10 (a) in subsection (3) after “determined” there were inserted “as soon as reasonably practicable and in any event”,

(b) subsection (4) were repealed.

(6) Section 53(4) (power of Principal Reporter to terminate or vary child protection order) has effect as if paragraph (a), and the word “or” immediately following that paragraph, were repealed.

15 (7) The modifications in sub-paragraphs (3) to (6) do not apply in relation to a child protection order (within the meaning of section 202 of the 2011 Act) made before the day on which those sub-paragraphs come into force.

Maximum period for which compulsory supervision order has effect

20 3 (1) The Children’s Hearings (Scotland) Act 2011 (“the 2011 Act”) applies in accordance with the modifications in sub-paragraphs (2) and (3).

(2) Section 83 (meaning of “compulsory supervision order”) has effect as if—

(a) in subsection (7), after paragraph (b) there were inserted—

25 “(c) where the order has, by virtue of subsection (7A), not ceased to have effect under paragraph (a)(i) or (b)(i), whichever of the following first occurs—

(i) the day 6 months after the day on which the order would, but for subsection (7A), have ceased to have effect,

(ii) the day on which the child attains the age of 18 years.”,

30 (b) after that subsection there were inserted—

“(7A) An order is not to cease to have effect under subsection (7)(a)(i) or, as the case may be, (b)(i) if, at the time when the order would (but for this subsection) cease to have effect, a children’s hearing to review the order—

(a) has not been arranged under section 137(2), or

35 (b) has been arranged under that section but a children’s hearing has not yet made a decision under section 138(3) in relation to the review.”.

(3) Section 133 (Principal Reporter’s duty to initiate review) has effect as if—

(a) the existing text were subsection (1),

(b) in that subsection—

- (i) in paragraph (a), for “the order will expire within” there were substituted “the original expiry date of the order falls within the next”,
- (ii) in paragraph (b), for “it expires” there were substituted “the original expiry date”,

5 (c) after that subsection there were inserted—

“(2) Where a compulsory supervision order would, but for section 83(7A), cease to have effect on the original expiry date, the Principal Reporter must initiate a review of the order as soon as practicable after the original expiry date (unless the order will otherwise be reviewed before the order ceases to have effect under section 83(7)(c)).

(3) In this section, the “original expiry date” is the date on which the compulsory supervision order would, but for section 83(7A), cease to have effect.”.

(4) The modifications in sub-paragraphs (2) and (3) apply in relation to—

(a) a compulsory supervision order which is in effect on the day before this paragraph comes into force, and

(b) a compulsory supervision order made on or after the day on which this paragraph comes into force.

(5) In sub-paragraph (4), “compulsory supervision order” has the meaning given by section 202 of the 2011 Act.

20 *Maximum period for which interim compulsory supervision order or interim variation of compulsory supervision order has effect*

4 (1) The Children’s Hearings (Scotland) Act 2011 (“the 2011 Act”) applies in accordance with the modifications in sub-paragraphs (2) and (3).

(2) Section 86(3) (period for which interim compulsory supervision order has effect) has effect as if—

(a) in paragraph (d), for the words from “the period” to the end there were substituted “whichever is the longer of—

(i) the period of 44 days beginning on the day on which the order is made, or

(ii) where the order is made by a sheriff, such other period of days beginning on that day as the sheriff may specify,”,

(b) in paragraph (e), for the words from “the period” to the end there were substituted “whichever is the longer of—

(i) the period of 44 days beginning on the day on which the order is extended, or

(ii) such other period of days beginning on that day as the sheriff may specify.”.

(3) Section 140(4) (period for which interim variation of compulsory supervision order has effect) has effect as if in paragraph (d) for the words from “the period” to the end there were substituted “whichever is the longer of—

40

- (i) the period of 44 days beginning on the day on which the order is varied, or
- (ii) where the order is made by a sheriff, such other period of days beginning on that day as the sheriff may specify.”.

- 5 (4) The—
- (a) modifications in sub-paragraph (2)—
 - (i) do not apply in relation to interim compulsory supervision orders made or extended (or extended and varied) before the day on which that sub-paragraph comes into force,
 - 10 (ii) do apply in relation to interim compulsory supervision orders made before that day but extended (or extended or varied) on or after that day,
 - (b) modification in sub-paragraph (3) does not apply in relation to interim variations of compulsory supervision orders where the variations were made before the day on which that sub-paragraph comes into force.
- 15 (5) In sub-paragraph (4), “compulsory supervision order”, “interim compulsory supervision order” and “interim variation” have the meanings given by section 202 of the 2011 Act.

Period within which children’s hearing must be held in certain cases

- 5 (1) The Children’s Hearings (Scotland) Act 2011 (“the 2011 Act”) applies in accordance with the modifications in sub-paragraphs (2) and (3).
- 20 (2) Section 109(7) (period within which children’s hearing must take place following making of interim compulsory supervision order specifying child reside at place of safety) has effect as if for “third day” there were substituted “seventh day”.
- (3) Section 137(3) (period within which children’s hearing must take place following transfer of child in case of urgent necessity) has effect as if for “3 working days” there were substituted “7 working days”.
- 25 (4) The modification in—
- (a) sub-paragraph (2) does not apply in relation to an interim compulsory supervision order made under section 109(3) or (5) of the 2011 Act before the day on which that sub-paragraph comes into force,
 - 30 (b) sub-paragraph (3) does not apply in relation to a transfer of a child under section 143 of that Act which occurred before the day on which that sub-paragraph comes into force.
- (5) In sub-paragraph (4), “interim compulsory supervision order” has the meaning given by section 202 of the 2011 Act.

35 *Children in secure accommodation*

- 6 (1) The Secure Accommodation (Scotland) Regulations 2013 (S.S.I. 2013/205) (“the 2013 Regulations”) apply in accordance with the modifications in sub-paragraphs (2) to (4).
- (2) Regulation 5(1) (maximum time in secure accommodation) has effect as if for “72” there were substituted “96”.

- (3) Regulation 7 (placement in secure accommodation of children subject to compulsory supervision orders which do not include a secure accommodation authorisation) has effect as if—
- (a) in paragraph (5), at the beginning there were inserted “Subject to paragraph (6),”,
- (b) after paragraph (5) there were inserted—
- “(6) Where paragraph (5) applies and the Principal Reporter considers that it would not be reasonably practicable to arrange the children’s hearing within 72 hours, the Principal Reporter will have a further period of 24 hours from the end of the period of 72 hours referred to in paragraph (5) within which to comply with the requirements in paragraph (5).”.
- (4) Regulation 8 (placement in secure accommodation of children subject to a relevant order which does not include a secure accommodation authorisation) has effect as if—
- (a) in paragraph (6), at the beginning there were inserted “Subject to paragraph (7),”,
- (b) after paragraph (6) there were inserted—
- “(7) Where sub-paragraph (a), (b), (ba), (e) or (f) of paragraph (6) applies and the Principal Reporter considers that it would not be reasonably practicable to arrange the children’s hearing within 72 hours, the Principal Reporter will have a further period of 24 hours from the end of the period of 72 hours referred to in sub-paragraph (a), (b), (ba), (e) or (f) (as the case may be) within which to comply with the requirements in that sub-paragraph.”.
- (5) The modifications in sub-paragraphs (2) to (4) do not apply in relation to a child placed in secure accommodation (within the meaning of regulation 2(1) of the 2013 Regulations) before the day on which this paragraph comes into force.

Modification of certain time limits for making and determination of appeals etc.

- 7 (1) The Children’s Hearings (Scotland) Act 2011 applies in accordance with the modifications in sub-paragraphs (2) to (8).
- (2) Section 154(5) (period for making appeal to sheriff against decision of children’s hearing) has effect as if for “21 days” there were substituted “42 days”.
- (3) Section 157 (time limits for disposal of appeals) has effect as if—
- (a) in subsection (2), for “3 days” there were substituted “7 days”,
- (b) subsection (3) were repealed.
- (4) Section 160(6) (periods for making and determination of appeal to sheriff against relevant person determination) has effect as if—
- (a) in paragraph (a), for “7 days” there were substituted “21 days”,
- (b) in paragraph (b), for “3 days” there were substituted “7 days”.
- (5) Section 161(6) (periods for making and determination of appeal to sheriff against decision affecting contact or permanence order) has effect as if—
- (a) in paragraph (a), for “21 days” there were substituted “42 days”,
- (b) in paragraph (b), for “3 days” there were substituted “7 days”.

- 5 (6) Section 163(8) (period for making children’s hearings appeals to sheriff principal and Court of Session) has effect as if for “28 days” there were substituted “56 days”.
- (7) Section 164(4) (period for making relevant person appeals to sheriff principal and Court of Session) has effect as if for “28 days” there were substituted “56 days”.
- 5 (8) Section 165(4) (period for making contact and permanence order appeals to sheriff principal and Court of Session) has effect as if for “28 days” there were substituted “56 days”.
- (9) The Act of Sederunt (Child Care and Maintenance Rules) 1997 (S.I. 1997/291) applies in accordance with the modification in sub-paragraph (10).
- 10 (10) Rule 3.45(1) (period for Principal Reporter to make certain applications to sheriff) has effect as if for “7 days” there were substituted “14 days”.
- (11) The Secure Accommodation (Scotland) Regulations 2013 (S.S.I. 2013/205) apply in accordance with the modification in sub-paragraph (12).
- 15 (12) Regulation 11A(2)(b) (period for disposal of appeal against decision to detain child in secure accommodation) has effect as if for “3 days” there were substituted “7 days”.
- (13) The Children’s Hearings (Scotland) Act 2011 (Implementation of Secure Accommodation Authorisation) (Scotland) Regulations 2013 (S.S.I. 2013/212) apply in accordance with the modification in sub-paragraph (14).
- 20 (14) Regulation 11(2) (period for making and determination of appeal against decision of chief social worker) has effect as if—
- (a) in sub-paragraph (a), for “21 days” there were substituted “42 days”,
- (b) in sub-paragraph (b), for “3 days” there were substituted “7 days”.
- 25 (15) The modifications in sub-paragraphs (2) to (8), (12) and (14) do not apply in relation to appeals against decisions or determinations made before the day on which this paragraph comes into force.

Attendance at children’s hearing

- 8 (1) The Children’s Hearings (Scotland) Act 2011 (Rules of Procedure in Children’s Hearings) Rules 2013 (S.S.I. 2013/194) apply in accordance with the modifications in this paragraph.
- 30 (2) Rule 19 (further provision in relation to the attendance of the child and relevant person at a children’s hearing or pre-hearing panel) has effect as if—
- (a) after paragraph (1) there were inserted—
- “(1A) Paragraph (2) applies where the Reporter has been advised that—
- 35 (a) a person (other than a person mentioned in paragraph (1))—
- (i) mentioned in section 78(1) of the Act wishes to attend a pre-hearing panel or children’s hearing or part of a children’s hearing, or
- (ii) is due to attend a pre-hearing panel or children’s hearing or part of a children’s hearing by virtue of section 78(2) of the Act, and
- 40 (b) the person is unable to attend because of a reason relating to coronavirus.”,

(b) in paragraph (2), after “the individual in question,”, in each place where it occurs, there were inserted “or person mentioned in paragraph (1A)”;

(c) after paragraph (2) there were inserted—

“(3) In paragraph (1A)(b), “coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020.”.

Authentication of children’s hearings documents

9 (1) The Children’s Hearings (Scotland) Act 2011 (Rules of Procedure in Children’s Hearings) Rules 2013 (S.S.I. 2013/194) apply in accordance with the modification in this paragraph.

10 (2) Rule 98(1) (signature of chairing member to be sufficient authentication) has effect as if at the end there were inserted “or by the Reporter”.

Looked after children

10 (1) The Looked After Children (Scotland) Regulations 2009 (S.S.I. 2009/210) (“the 2009 Regulations”) apply in accordance with the modifications in sub-paragraphs (2) to (9).

15 (2) Regulation 20(2)(c) (functions of the fostering panel) has effect as if the words “, subject to the placement limit set out in regulation 27A” were repealed.

(3) Regulation 22(5)(d) (approval of foster carers) has effect as if the words “, subject to the placement limit set out in regulation 27A” were repealed.

(4) Regulation 27 (placement of child with foster carer) has effect as if—

(a) paragraph (1)(c) were repealed,

(b) after paragraph (2) there were inserted—

“(2A) But a local authority may place a child with a foster carer where the terms of the foster carer’s approval regarding the number of children the foster carer may have in their care at any one time are not consistent with the placement, if the authority—

(a) considers that it is necessary to do so for a reason relating to coronavirus, and

(b) is otherwise satisfied as to the matters mentioned in paragraph (2).”.

(c) after paragraph (4) there were inserted—

“(5) In paragraph (2A), “coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020.”.

(5) The 2009 Regulations have effect as if regulation 27A (foster carer placement limit) were repealed.

35 (6) Regulation 36(1) (emergency placement with carer) has effect as if for “3” there were substituted “5”.

(7) Regulation 38 (review of emergency placement) has effect as if—

(a) in paragraph (2), for “3” there were substituted “5”,

(b) after paragraph (3) there were inserted—

“(3A) A local authority need not carry out a review under paragraph (2) within the period of days mentioned in that paragraph if the authority’s Chief Social Work Officer is satisfied that—

- (a) placement is in the best interests of the child,
- (b) placement of the child with that carer is in the best interests of the child, and
- (c) it is not reasonably practicable for the authority to carry out the review within that period.

(3B) Where a local authority, in reliance on paragraph (3A), does not carry out a review under paragraph (2) within the period of days mentioned in paragraph (2), the authority must carry out the review as soon as reasonably practicable after the end of that period.

(3C) In paragraph (3A), “the Chief Social Work Officer”, in relation to a local authority, means the official appointed by the authority under section 3(1) of the Social Work (Scotland) Act 1968.”.

(8) Regulation 39 (extension of emergency placement) has effect as if—

- (a) in paragraph (1), for “12” there were substituted “24”,
- (b) in paragraph (2), for “12” there were substituted “24”,
- (c) in paragraph (3), for “6” there were substituted “12”.

(9) Regulation 45 (review of child’s case) has effect as if—

- (a) in paragraph (2), after “paragraphs” there were inserted “(2A),”,
- (b) after that paragraph there were inserted—

“(2A) Where the child has been placed with a kinship carer in accordance with regulation 11, the local authority must, by complying with the requirements in paragraph (5), carry out the following reviews of the child’s case—

- (a) a first review within 3 months of the placement,
- (b) thereafter subsequent reviews within 6 months from the date of the previous review.”,

(c) in paragraph (4), after “(2)” there were inserted “, (2A)”.

(10) The modifications in—

- (a) sub-paragraphs (6), (7) and (8) do not apply in relation to a child placed under regulation 36(1) of the 2009 Regulations before the day on which this paragraph comes into force,
- (b) sub-paragraph (9) do not apply in relation to a child placed under regulation 11 of those Regulations before the day on which this paragraph comes into force.

PART 2

VULNERABLE ADULTS

Care of adults with incapacity

11 (1) The Social Work (Scotland) Act 1968 has effect as if section 13ZA (provision of
 5 services to incapable adults) were modified as follows—

- (a) in subsection (3), for “to (4)” there were substituted “and (3)”,
- (b) subsection (4) were repealed.

(2) The Criminal Procedure (Scotland) Act 1995 has effect as if section 58A (application of
 10 Adults with Incapacity (Scotland) Act 2000 to guardianship orders) were modified by
 the insertion, after subsection (5), of the following—

“(5A) The period mentioned in subsection (5) does not, unless it is an indefinite
 period, run during any period for which this subsection has effect.

(5B) The guardianship order continues to have effect during any period for which
 subsection (5A) has effect.

15 (5C) Nothing in subsection (5B) affects any other ground on which the order may
 cease to have effect.”.

(3) The Adults with Incapacity (Scotland) Act 2000 has effect as if it were modified as
 follows—

- (a) in section 47 (authority of persons responsible for medical treatment) after
 20 subsection (2) there were inserted—

“(2ZA) The period mentioned in subsection (2) does not run during any period for
 which this subsection has effect.

(2ZB) The certificate continues to have effect during any period for which subsection
 (2ZA) has effect.

25 (2ZC) Nothing in subsection (2ZB) affects any other ground on which the certificate
 may cease to have effect.”,

- (b) in section 58 (disposal of application for guardianship order) after subsection (4)
 there were inserted—

30 “(4A) The period mentioned in subsection (4) does not, unless it is an indefinite
 period, run during any period for which this subsection has effect.

(4B) The order continues to have effect during any period for which subsection (4A)
 has effect.

(4C) Nothing in subsection (4B) affects any other ground on which the order may
 cease to have effect.”,

- (c) in section 60 (renewal of guardianship order by sheriff) after subsection (4) there
 35 were inserted—

“(4ZA) The period mentioned in section 58(4), as substituted by subsection (4)(b),
 does not, unless it is an indefinite period, run during any period for which this
 subsection has effect.

40 (4ZB) The order continues to have effect during any period for which subsection
 (4ZA) has effect.

(4ZC) Nothing in subsection (4ZB) affects any other ground on which the order may cease to have effect.”.

SCHEDULE 4
(introduced by section 5)

JUSTICE

PART 1

COURTS AND TRIBUNALS: CONDUCT OF BUSINESS BY ELECTRONIC MEANS

Electronic signatures and transmission of documents

1 (1) An electronic signature fulfils any requirement (however expressed and for whatever
10 purpose) that—

(a) a document of a type mentioned in sub-paragraph (4), or

(b) a deletion or correction to such a document,

be signed, initialled or signetted.

(2) Any requirement (however expressed) that a document of a type mentioned in sub-
15 paragraph (4) be given to a person may be fulfilled by—

(a) transmitting it to the person electronically, or

(b) transmitting it (electronically or otherwise) to a solicitor engaged to act on the
person’s behalf in relation to the proceedings in question.

(3) For the purposes of sub-paragraph (2)—

20 (a) electronic transmission of a document by one person (“the sender”) to another
person (“the recipient”) must be effected in a way that the recipient has indicated
to the sender that the recipient is willing to receive the document,

(b) the recipient’s indication of willingness to receive a document in a particular way
may be—

25 (i) specific to the document in question or generally applicable to documents
of that kind,

(ii) expressed specifically to the sender or generally (for example on a
website),

30 (iii) inferred from the recipient having previously been willing to receive
documents from the sender in that way and not having indicated
unwillingness to do so again,

(c) the sender’s uploading of a document to an electronic storage system from which
the recipient is able to download the document may constitute electronic
transmission of the document from the sender to the recipient.

35 (4) The types of document referred to in sub-paragraphs (1) and (2) are (subject to sub-
paragraph (5))—

(a) an order, warrant, sentence, citation, minute or any other document produced by a
court or tribunal,

(b) an extract of any document referred to in paragraph (a),

- (c) any document that an enactment requires be given to a person in connection with, or in order to initiate, proceedings.
- (5) A type of document mentioned in sub-paragraph (4) is not to be regarded as being mentioned in that sub-paragraph, for the purposes of sub-paragraph (1) or (2) (or both), if—
- 5 (a) the Lord President of the Court of Session, or
(b) the Lord Justice General,
directs that it is not.
- (6) A direction under sub-paragraph (5) may relate to some or all proceedings.
- 10 (7) In this paragraph—
- (a) “court” includes any office holder of a court,
(b) “document” includes a copy of a document,
(c) “electronic signature” is to be construed in accordance with section 7(2) of the Electronic Communications Act 2000, but includes a version of an electronic signature which is reproduced on a paper document,
15 (d) references to giving a person a document include—
(i) serving a document on a person,
(ii) sending a document to a person, and
(iii) lodging a document with, or otherwise applying to or petitioning, a court or
20 tribunal,
(e) “tribunal” includes any office holder of a tribunal.

Suspension of requirements for physical attendance

- 2 (1) Any requirement (however expressed) that a person physically attend a court or tribunal does not apply, unless the court or tribunal directs the person to attend physically.
- 25 (2) But sub-paragraph (1) does not apply in relation to a trial diet.
- (3) In the case of such a diet, the court may disapply any requirement (however expressed) that a person physically attend the court by directing that the person need not do so.
- (4) A court or tribunal may issue a direction under sub-paragraph (1) only if it considers that allowing the person to attend by electronic means in accordance with paragraph 3 would—
30 (a) prejudice the fairness of proceedings, or
(b) otherwise be contrary to the interests of justice.
- (5) A court may issue a direction under sub-paragraph (3) only if it considers that allowing the person to attend by electronic means in accordance with paragraph 3 would not—
35 (a) prejudice the fairness of proceedings, or
(b) otherwise be contrary to the interests of justice.
- (6) A court or tribunal may issue or revoke a direction under sub-paragraph (1) or (3) on the motion of a party or of its own accord.

- (7) In considering whether to issue or revoke a direction under sub-paragraph (1) or (3), the court or tribunal must—
- (a) give all parties an opportunity to make representations, and
 - (b) have regard to any guidance issued by—
 - (i) the Lord President of the Court of Session, or
 - (ii) the Lord Justice General.
- (8) References in this paragraph to physically attending a court or tribunal are to—
- (a) being in a particular place, or
 - (b) being in the same place as another person,
- for the purpose of any proceedings before a court or tribunal or an office holder of a court or tribunal.

Attendance by electronic means

- (1) A person excused from a requirement to physically attend a court or tribunal by virtue of paragraph 2(1) or (3) must instead appear before the court, tribunal or office holder (as the case may be) by electronic means in accordance with a direction issued by the court or tribunal.
- (2) A person who fails to do so is to be regarded as having failed to comply with the requirement to physically attend from which the person is excused.
- (3) The power under sub-paragraph (1) to issue a direction includes the power to vary or revoke an earlier direction under that sub-paragraph.
- (4) A direction under sub-paragraph (1)—
- (a) is to set out how the person is to appear by electronic means before the court, tribunal or office holder, and
 - (b) may include any other provision the court or tribunal considers appropriate.
- (5) A court or tribunal may issue a direction under sub-paragraph (1) on the motion of a party or of its own accord.
- (6) Before issuing a direction under sub-paragraph (1), the court or tribunal must—
- (a) give all parties an opportunity to make representations, and
 - (b) have regard to any guidance issued by—
 - (i) the Lord President of the Court of Session, or
 - (ii) the Lord Justice General.
- (7) A direction under sub-paragraph (1) that—
- (a) sets out how a party to proceedings is to attend, by electronic means, a trial diet must provide for the party to use means that enable the party to both see and hear all of the other parties, the judge and (where applicable) the jury and any witness who is giving evidence,
 - (b) sets out how a witness who is to give evidence at a trial diet is to attend by electronic means, must provide for the witness to use means that enable all of the parties, the judge and (where applicable) the jury to both see and hear the witness.

Part 1—Courts and Tribunals: conduct of business by electronic means

- (8) Nothing in sub-paragraph (7) is to be taken to mean that a person is to be enabled to see or hear a witness in a way that measures taken in accordance with an order of the court or tribunal would otherwise prevent.

Further provision about attendance by electronic means

- 5 4 (1) A court or tribunal may—
- (a) issue a direction under paragraph 3(1) that applies for the purpose of all proceedings of a type specified in the direction, provided that the only party to the proceedings is a public official,
- 10 (b) issue a further direction under paragraph 3(1) overriding, for the purpose of specific proceedings, a general direction issued by virtue of paragraph (a).
- (2) Paragraph 3(6)(a) does not apply in relation to a general direction issued by virtue of sub-paragraph (1)(a).
- (3) In this paragraph—
- “public official” means—
- 15 (a) a person who is a public authority and is acting in that capacity, or
- (b) a person who is acting on behalf of a public authority,
- “public authority” is to be construed in accordance with section 6 of the Human Rights Act 1998.

Publication of directions and guidance

- 20 5 A person who issues any of the following must make it publicly available—
- (a) a direction under paragraph 1(5),
- (b) guidance under paragraph 2(7)(b) or 3(6)(b).

Interpretation of Part

- 6 In this Part—
- 25 “court” means any of the Scottish courts as defined in section 2(6) of the Judiciary and Courts (Scotland) Act 2008,
- “proceedings” includes any process before a court or tribunal, or any office holder of a court or tribunal (for example, a process by which a warrant may be obtained for the purpose of investigating a suspected offence),
- 30 “requirement” means a requirement arising from an enactment or rule of law,
- “tribunal” means any of the following—
- (a) the First-tier Tribunal for Scotland,
- (b) the Upper Tribunal for Scotland,
- (c) a children’s hearing.

PART 2

FISCAL FINES

Fixed penalty: conditional offer by procurator fiscal

- 5 7 (1) The Criminal Procedure (Scotland) Act 1995 applies in accordance with the modification in sub-paragraph (2).
- (2) Section 302(7A) (maximum fixed penalty that may be prescribed) has effect as if for “£300” there were substituted “£500”.
- (3) The Criminal Procedure (Scotland) Act 1995 Fixed Penalty Order 2008 (S.S.I. 2008/108) applies in accordance with the modification in sub-paragraph (4).
- 10 (4) The schedule has effect as if for it there were substituted—

“SCHEDULE

Article 2

THE SCALE OF FIXED PENALTIES

<i>Level on the scale</i>	<i>Amount of fixed penalty</i>
15 1	£50
2	£125
3	£175
4	£250
5	£325
20 6	£400
7	£500”.

PART 3

CASES BEGINNING WITH AN APPEARANCE FROM CUSTODY

Ability to take case in any sheriff court

- 25 8 (1) If it involves an appearance from police custody, a first calling of criminal proceedings in the sheriff court may—
- (a) be taken in any sheriff court in Scotland, and
- (b) be dealt with in that court by a sheriff of any sheriffdom.
- (2) For the purposes of sub-paragraph (1), a first calling of proceedings involves an appearance from police custody if the person who is the accused or otherwise the subject of the proceedings—
- 30 (a) was arrested by a constable in connection with the offence or other matter to which the proceedings relate, and
- (b) is not released from custody before the appearance.
- 35 (3) Where sub-paragraph (1) applies, it is for the Lord Advocate or the procurator fiscal to determine which sheriff court a first calling is to be taken in.

- (4) Sub-paragraph (5) applies where a first calling of criminal proceedings comes before a sheriff court by virtue of sub-paragraph (1).
- (5) The proceedings may continue to be dealt with—
- 5 (a) in the same sheriff court, and
- (b) by a sheriff of any sheriffdom.
- (6) But that court can no longer deal—
- (a) with proceedings on petition or indictment, after—
- 10 (i) committal until liberation in due course of law, or
- (ii) any earlier calling at which a plea of not guilty is tendered by the accused but not accepted by the prosecutor,
- (b) with summary criminal proceedings, after a calling at which a plea of not guilty is tendered by the accused but not accepted by the prosecutor.
- (7) References in this paragraph to the accused or other person who is the subject of the proceedings are to be read in relation to proceedings in which there is more than one such person as a reference to at least one of them.
- 15

Paragraph 8: supporting provision

- 9 (1) A sheriff court has jurisdiction for all cases which come before it by virtue of paragraph 8.
- (2) A procurator fiscal for a sheriff court district has—
- 20 (a) power to prosecute or, as the case may be, represent the interests of the prosecutor in any case that comes before the sheriff court of that district by virtue of paragraph 8,
- (b) the like powers in relation to such cases as the prosecutor has for the purposes of other cases that come before the sheriff when exercising criminal jurisdiction.
- 25 (3) For the purposes of paragraph 8, a sheriff may, without the need for further commission, exercise the jurisdiction and powers that attach to the office of sheriff in relation to criminal proceedings in every sheriffdom (and the same applies accordingly to any other member of the judiciary, so far as that member has the jurisdiction and powers that attach to the office of sheriff in relation to criminal proceedings).
- 30 (4) In paragraph 8 and this paragraph, “criminal proceedings” means any proceedings in which a court is exercising criminal jurisdiction including in particular—
- (a) proceedings on indictment,
- (b) proceedings on petition,
- (c) summary criminal proceedings,
- 35 (d) ancillary proceedings such as proceedings in respect of—
- (i) breach of bail,
- (ii) non-payment of a fine or other monetary penalty,
- (iii) breach of an order of a court, or
- (iv) failure of an accused person or a witness to attend a diet.

- (5) Any expression used in paragraph 8 or this paragraph which is also used in the Criminal Procedure (Scotland) Act 1995 has the same meaning here as it does there.
- (6) Paragraph 8 and this paragraph are without prejudice to sections 4 to 10, 34A and 137C of the Criminal Procedure (Scotland) Act 1995.

5

PART 4

EXTENSION OF TIME LIMITS

Criminal proceedings: extension of time limits

- 10 (1) The Criminal Procedure (Scotland) Act 1995 applies in accordance with the modifications in sub-paragraphs (2) to (6).
- 10 (2) Section 52T (prevention of delay in trials: assessment orders and treatment orders) has effect as if—
 - (a) in subsection (1), after the words “Subsections (4) to (9)” there were inserted “, (11), (12)(b) and (13)”,
 - 15 (b) in subsection (4)(c), before the word “section” there were inserted “subsection (1) of”,
 - (c) after subsection (4) there were inserted—
 - “(5) In subsection (4)—
 - 20 (a) the provisions of section 65 referred to in paragraphs (a) and (b) are to be read with subsections (11), (12)(b) and (13) of that section,
 - (b) the provisions of section 147 referred to in paragraphs (c) and (d) are to be read with subsections (5) and (6) of that section.”.
- (3) Section 65 (solemn proceedings: prevention of delay in trials) has effect as if after subsection (10) there were inserted—
 - 25 “(11) In calculating any of the periods specified in subsection (12), no account is to be taken of the suspension period.
 - (12) Those periods are—
 - (a) any period mentioned in subsection (1), including any such period as extended—
 - 30 (i) under subsection (3),
 - (ii) on appeal under subsection (8), or
 - (iii) under section 74(4)(c),
 - (b) any period mentioned in subsection (4), including any such period as extended—
 - (i) under subsection (5), or
 - 35 (ii) on appeal under subsection (8).
- (13) For the purpose of subsection (11), the suspension period is the period of 6 months beginning with whichever is the later of—
 - (a) the day on which paragraph 10 of schedule 4 of the Coronavirus (Scotland) Act 2020 comes into force,

(b) the day on which—

(i) in relation to a period specified in subsection (12)(a), the accused first appears on petition in respect of the offence, or

(ii) in relation to a period specified in subsection (12)(b), the accused is committed for the offence until liberated in due course of law.”.

(4) Section 136(1) (time limit for certain offences) has effect as if for the words “six months” in both places where they occur there were substituted “12 months”.

(5) Section 147 (summary proceedings: prevention of delay in trials) has effect as if after subsection (4) there were inserted—

“(5) In calculating the period mentioned in subsection (1), including any such period as extended either under subsection (2) or on appeal under subsection (3), no account is to be taken of the suspension period.

(6) For the purpose of subsection (5), the suspension period is the period of 3 months beginning with whichever is the later of—

(a) the day on which paragraph 10 of schedule 4 of the Coronavirus (Scotland) Act 2020 comes into force,

(b) the day on which the complaint is brought in court.”.

(6) Section 201 (power of court to adjourn case before sentence) has effect as if for subsection (3) there were substituted—

“(3) The court may adjourn the hearing of a case as mentioned in subsection (1) for such period as it considers appropriate.”.

(7) The Criminal Justice (Scotland) Act 2003 applies in accordance with the modification in sub-paragraph (8).

(8) Section 21 (sexual and certain other offences: reports) has effect as if subsections (9) and (10) were repealed.

PART 5

TRIALS ON INDICTMENT

Conduct of trials on indictment

(1) The Scottish Ministers may by regulations provide that trials on indictment are to be conducted by the court sitting without a jury.

(2) The Scottish Ministers may make regulations under sub-paragraph (1) only if they are satisfied that the making of the regulations is necessary and proportionate, in response to the effects coronavirus is having or is likely to have, for the purpose of ensuring that the criminal justice system continues to operate effectively.

(3) Before making regulations under sub-paragraph (1), the Scottish Ministers must consult—

(a) the Lord Justice General, and

(b) any other person they consider appropriate.

(4) For the purposes of any trial conducted by virtue of sub-paragraph (1)—

(a) the court has all the powers, authorities and jurisdiction which it would have had if it had been sitting with a jury, including power to determine any question and to make any finding which would, apart from this paragraph, be required to be determined or made by a jury, and references in any enactment or other rule of law to a jury or the verdict or finding of a jury are to be construed accordingly,

(b) the judge conducting the trial may make such orders as the judge considers necessary for the fair and efficient disposal of the case.

(5) Any reference in any enactment or other rule of law to—

(a) the commencement of the trial, or

(b) the swearing of the jury,

is, in relation to a trial conducted by virtue of sub-paragraph (1), to be taken to be a reference to the reading of the indictment to the court by the clerk.

(6) At the time of giving the verdict in a trial conducted by virtue of sub-paragraph (1), the judge conducting the trial must give reasons for the verdict.

(7) The High Court may by act of adjournal make any incidental, supplementary, consequential, transitional, transitory or saving provision it considers appropriate, including modifying any enactment, for the purposes of, in connection with or for giving full effect to this paragraph or any provision made under it.

(8) Sub-paragraph (7) is without prejudice to section 305 of the Criminal Procedure (Scotland) Act 1995.

(9) In this paragraph—

(a) “court” means the High Court or a sheriff, and

(b) other than “enactment”, any expression used which is also used in the Criminal Procedure (Scotland) Act 1995 has the same meaning here as it does there.

PART 6

EVIDENCE

Exceptions to the rule that hearsay evidence is inadmissible

12 (1) The Criminal Procedure (Scotland) Act 1995 applies in accordance with the modifications in this paragraph.

(2) Section 259 (exceptions to the rule that hearsay evidence is inadmissible) has effect as if—

(a) in subsection (1)(a), for “subsection (2)” there were substituted “subsection (2) or (2A)”,

(b) after subsection (2) there were inserted—

“(2A) The reasons referred to in paragraph (a) of subsection (1) also include that it is not reasonably practicable, because of a reason relating to coronavirus, for the person who made the statement to attend the trial or to give evidence in any other competent manner.”,

(c) in subsection (3), after “subsection (2)” there were inserted “or in subsection (2A)”,

(d) in subsection (4), after “subsection (2)” there were inserted “or in subsection (2A)”;

(e) after subsection (10) there were inserted—

“(11) In subsection (2A), “coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020.”.

PART 7

COMMUNITY ORDERS

Community payback orders: extension of unpaid work or other activity requirements

13 (1) Sub-paragraph (2) applies to a community payback order—

- (a) imposed on or before the day of Royal Assent,
- (b) which imposes an unpaid work or other activity requirement (regardless of whether or not it also imposes any other requirement), and
- (c) where the specified period to complete the requirement ends after that day.

(2) The order is to be read as if the specified period were extended by 12 months.

(3) The Scottish Ministers may by regulations provide that, in relation to a community payback order to which sub-paragraph (4) applies, the order is to be read as if the specified period to complete the unpaid work or other activity requirement (read in accordance with sub-paragraph (2) if it applies to the order) were extended by the amount of time specified in the regulations.

(4) This sub-paragraph applies to a community payback order—

- (a) imposed on or before the day on which the regulations come into force,
- (b) which imposes an unpaid work or other activity requirement (regardless of whether or not it also imposes any other requirement), and
- (c) where the specified period to complete the requirement (read in accordance with sub-paragraph (2) if it applies to the order) ends after that day.

(5) Regulations under sub-paragraph (3) may be made only if the Scottish Ministers are satisfied that—

- (a) if the regulations were not made, it is likely that there will be a failure to comply with an unpaid work or other activity requirement in one or more community payback orders as a result of coronavirus, or
- (b) the making of the regulations is necessary in response to the effect of coronavirus on local authorities or the Scottish Courts and Tribunals Service.

(6) Regulations under sub-paragraph (3) are subject to the affirmative procedure.

(7) The relevant local authority in relation to a community payback order to which sub-paragraph (2) or regulations made under sub-paragraph (3) applies must inform the offender of the effect of sub-paragraph (2) or, as the case may be, the regulations on the order.

Community payback orders: time limit for completion of unpaid work or other activity

14 (1) Section 227L of the Criminal Procedure (Scotland) Act 1995 (time limit for completion of unpaid work or other activity) applies in accordance with the modifications in this paragraph.

- 5 (2) Subsection (2)(a) has effect as if for “3 months” there were substituted “12 months”.
- (3) Subsection (2)(b) has effect as if for “6 months” there were substituted “12 months”.

Community orders: postponement

15 (1) The Scottish Ministers may by regulations postpone the effect of community payback orders and drug treatment and testing orders.

10 (2) The regulations—

(a) may make different provision for different descriptions of—

- (i) order,
(ii) requirement imposed under an order,
(iii) offender in respect of whom the order is imposed,
15 (iv) offence the offender is convicted of,

(b) may provide for all requirements imposed by an order to be postponed or for specified requirements to be postponed,

(c) may not postpone unpaid work or other activity requirements,

(d) must specify—

20 (i) the day on which the requirements imposed by the orders are suspended,
and

(ii) the day on which the requirements resume effect (which day must be no later than 6 months after the day specified by virtue of sub-paragraph (i)),

(e) may be made in relation to orders and requirements imposed by orders that have previously been postponed by virtue of regulations made under sub-paragraph (1).

25 (3) The period during which a requirement is suspended by virtue of regulations under sub-paragraph (1) does not count as elapsed time in relation to any period specified as part of the requirement and any references in an order to periods or dates is to be read accordingly.

30 (4) During a period in which a requirement is suspended by virtue of regulations under sub-paragraph (1), the offender on whom the requirement was imposed does not need to comply with the requirement (and therefore section 227ZC of the Criminal Procedure (Scotland) Act 1995 does not apply).

35 (5) Regulations under sub-paragraph (1) may be made only if the Scottish Ministers are satisfied that—

(a) if the regulations were not made, it is likely that there will be a failure to comply with a requirement imposed by one or more of the orders to which the regulations apply as a result of coronavirus, or

40 (b) the making of the regulations is necessary in response to the effect of coronavirus on local authorities or the Scottish Courts and Tribunals Service.

- (6) Regulations under sub-paragraph (1) are subject to the affirmative procedure.
- (7) The relevant local authority in relation to a community payback order or drug treatment and testing order to which regulations made under sub-paragraph (1) applies must inform the offender of the effect of the regulations on the order.

5 *Community orders: variation*

16 (1) The Scottish Ministers may by regulations vary requirements imposed in community payback orders and drug treatment and testing orders.

(2) Regulations under sub-paragraph (1) may—

(a) make different provision for different descriptions of—

- 10 (i) order,
- (ii) requirement imposed under an order,
- (iii) offender in respect of whom the order is imposed,
- (iv) offence the offender is convicted of,

(b) revoke orders,

15 (c) revoke requirements.

(3) Regulations under sub-paragraph (1) may not—

(a) modify the amount of compensation required to be paid under a compensation requirement,

20 (b) increase the total amount of hours specified in an unpaid work or other activity requirement,

(c) increase or extend the period for which a requirement is imposed,

(d) increase the period during which an offender must be at a specified place or not be at a specified place or class of place under a restricted movement requirement.

25 (4) Regulations under sub-paragraph (1) may be made only if the Scottish Ministers are satisfied that—

(a) the variations will not make the orders to which the regulations apply more onerous to comply with, and

(b) either—

30 (i) if the regulations were not made, it is likely that there will be a failure to comply with a requirement imposed by one or more of the orders to which the regulations apply as a result of coronavirus, or

(ii) the making of the regulations is necessary in response to the effect of coronavirus on local authorities or the Scottish Courts and Tribunals Service.

35 (5) Regulations under sub-paragraph (1) are subject to the affirmative procedure.

(6) The relevant local authority in relation to a community payback order or drug treatment and testing order to which regulations made under sub-paragraph (1) apply must inform the offender of the effect of the regulations on the order.

Community orders: interpretation

17 In paragraphs 13, 15 and 16—

5 “community payback order” means a community payback order imposed under section 227A(1) or (4) or 227M(2) of the Criminal Procedure (Scotland) Act 1995,

“compensation requirement” has the meaning given in section 227H(1) of that Act,

“drug treatment and testing order” has the meaning given in section 234B(2) of that Act,

10 “relevant local authority” means—

(a) in relation to a community payback order, the local authority in whose area is situated the locality specified in the order by virtue of section 227C(2)(a) of that Act,

15 (b) in relation to a drug treatment and testing order, the local authority specified by virtue of section 234C(6) of that Act,

“restricted movement requirement” has the meaning given in section 227ZF(1) of that Act,

“specified period”, in relation to an unpaid work or other activity requirement, has the meaning given in section 227L(2) of that Act,

20 “unpaid work or other activity requirement” has the meaning given in section 227I(1) of that Act.

PART 8

PAROLE BOARD

Chairing of the Parole Board

25 18 (1) The Prisoners and Criminal Proceedings (Scotland) Act 1993 applies in accordance with the modification in this paragraph.

(2) Schedule 2 has effect as if after paragraph 2J there were inserted—

30 “2K(1) If the Chairman of the Parole Board is unable to perform the functions of the Chairman under this Act or the Parole Board (Scotland) Rules 2001 (S.S.I. 2001/315) (the “Rules”) for reasons related to coronavirus, the most senior member of the Parole Board is to perform those functions instead.

(2) In sub-paragraph (1)—

(a) “coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020, and

35 (b) “the most senior member of the Parole Board” means—

(i) the member whose initial appointment to the Parole Board began first, or

(ii) if more than one member falls within sub-paragraph (i), whichever of those members is most senior in age.

- 5 (3) For so long as sub-paragraph (1) has effect, in Rule 2(1) of the Rules, in the definition of “the chairman of the Board”, the reference to “the chairman of the Board appointed under paragraph 1 of Schedule 2 to the 1993 Act” is to be read instead as a reference to “the person performing the functions of the Chairman by virtue of paragraph 2K(1) of Schedule 2 to the 1993 Act”.
- 2L(1) The Chairman of the Parole Board may make arrangements to delegate the functions of the Chairman to another member or members of the Parole Board.
- 10 (2) Where arrangements under sub-paragraph (1) have effect, the functions of the Chairman may be performed by the member to whom the functions are delegated or, where the functions are delegated to more than one member, by any one of those members.
- (3) Arrangements under sub-paragraph (1) are to be treated as having effect since the date on which paragraph 18 of schedule 4 of the Coronavirus (Scotland) Act 2020 came into force (regardless of when the arrangements were made).
- 15 (4) Where arrangements under sub-paragraph (1) have effect, the following references are to be read instead as references to the member or members (as the case may be) to whom the Chairman’s functions have been delegated—
- (a) the references to the chairperson in paragraph 2HA(3) and (4),
- (b) the reference to the Chairman in paragraph 2J,
- 20 (c) any reference to the Chairman of the Parole Board (however expressed) in the Rules.”.

Modifications of the Parole Board Rules

- 19 (1) The Parole Board (Scotland) Rules 2001 (S.S.I. 2001/315) apply in accordance with the modifications in this paragraph.
- 25 (2) Rule 2(1) (interpretation) has effect as if in the definition of “prisoner” paragraph (c) were revoked.
- (3) Rule 12A (use of a live link) has effect as if—
- (a) in paragraph (1) for “evidence of a witness, or of the person concerned, to be given” there were substituted “proceedings to take place”,
- 30 (b) after paragraph (1) there were inserted—
- “(1A) In considering the interests of justice for the purposes of paragraph (1), the Board or tribunal may take into account the risk of the proceedings not being able to take place other than through a live link (for example, because of a risk to public health for a reason relating to coronavirus if a person were to be required to give evidence in person).”.
- 35 (4) Rule 17 (application) has effect as if—
- (a) in paragraph (1)—
- (i) for “paragraph” there were substituted “paragraphs (1A) and”,
- (ii) “, 3A(2),” were revoked,
- 40 (b) after paragraph (1) there were inserted—

“(1A) In paragraph (1), the reference to the case of a prisoner referred under section 17(3) of the 1993 Act does not include reference to the case of a prisoner referred under that section where—

(a) the prisoner is subject to an extended sentence by virtue of section 210A of the Criminal Procedure (Scotland) Act 1995 and has been recalled to custody under section 17(1) of the 1993 Act, and

(b) the prisoner is serving the extension period (within the meaning of section 210A(2)(b) of the 1995 Act) of that sentence.”.

(5) Rule 20 (hearing) has effect as if for it there were substituted—

“If it considers that it is in the interests of justice to do so, the tribunal may—

(a) on the application of any party; or

(b) of its own motion,

hold an oral hearing of the prisoner’s case.”.

PART 9

RELEASE OF PRISONERS

Early release of prisoners

20 (1) 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.

(2) The Scottish Ministers may make regulations under sub-paragraph (1) only if they are satisfied that the making of the regulations is necessary and proportionate, in response to the effects coronavirus is having or is likely to have, on a prison or prisons generally, for the purpose of protecting—

(a) the security and good order of any prison to which the regulations relate, or

(b) the health, safety or welfare of prisoners, or those working, in any such prison.

(3) But a person is not to be released from prison by virtue of regulations under sub-paragraph (1) if—

(a) the person falls within sub-paragraph (4), or

(b) the governor of the prison within which the person is detained for the time being considers that, if released, the person would pose an immediate risk of harm to an identified person.

(4) A person falls within this sub-paragraph if the person is—

(a) a life prisoner,

(b) an untried prisoner,

(c) a terrorist prisoner within the meaning of section 1AB of the 1993 Act,

(d) liable to removal from the United Kingdom for the purposes of section 9 of that Act,

(e) subject to a supervised release order under section 209 of the 1995 Act,

(f) serving a sentence imposed under section 210A of that Act (extended sentences for sex, violent and terrorist offenders),

- (g) the subject of proceedings under the Extradition Act 2003, or
- (h) subject to the notification requirements of Part 2 of the Sexual Offences Act 2003.

(5) In sub-paragraph (4)—

- (a) “life prisoner” means a person who is—

- (i) serving a sentence of imprisonment for life,
- (ii) detained without limit of time or detained for life, or
- (iii) subject to an order for lifelong restriction made under section 201F of the 1995 Act,

- (b) “untried prisoner” means a person who, whether or not in prison for any other reason, is in prison—

- (i) having been committed for examination or trial on any criminal charge,
- (ii) by virtue of remand in custody under the Extradition Act 2003,
- (iii) by virtue of detention under schedule 2 or 3 of the Immigration Act 1971, or

- (iv) following conviction but awaiting sentence.

(6) Regulations under sub-paragraph (1) must—

- (a) specify the date on which a person is to be released from prison under the regulations, or
- (b) make provision about how that date is to be calculated.

(7) Where a person released from prison by virtue of regulations under sub-paragraph (1) is, immediately before release—

- (a) a short-term prisoner, the person is to be treated for all purposes as if the person had been released under section 1(1) of the 1993 Act,
- (b) a long-term prisoner, the person is to be treated for all purposes as if the person had been released under section 1(3) of the 1993 Act,
- (c) serving a sentence of detention for a period of less than 4 years imposed under section 207(2) of the 1995 Act, the person is to be treated for all purposes as if the person had been released under section 1(1) of the 1993 Act (as applied by section 6 of that Act),
- (d) serving a sentence of detention for a period of 4 years or more imposed under section 207(2) of the 1995 Act, the person is to be treated for all purposes as if the person had been released under section 1(3) of the 1993 Act (as applied by section 6 of that Act),
- (e) serving a sentence of detention imposed under section 208(1) of the 1995 Act, the person is to be treated for all purposes as if the person had been released under section 7(2) of the 1993 Act.

(8) Regulations under sub-paragraph (1) may make different provision for—

- (a) different classes of person,
- (b) different prisons or classes of prison, or parts of a prison,
- (c) other different purposes.

(9) In this paragraph—

“the 1993 Act” means the Prisoners and Criminal Proceedings (Scotland) Act 1993,

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995,

“long-term prisoner” and “short-term prisoner” have the meanings given by section 27 of the 1993 Act,

“prison” means—

(a) a prison within the meaning of section 43 of the Prisons (Scotland) Act 1989,

(b) a young offenders institution within the meaning of section 19(1)(b) of that Act.

Regulations under paragraph 20: procedure and expiry

21 (1) Regulations under paragraph 20(1) are subject to the affirmative procedure unless they fall within sub-paragraph (2).

15 (2) Regulations fall within this sub-paragraph if they—

(a) do not provide for the release of any person more than 180 days earlier than the person would otherwise be released, and

(b) contain a declaration that the Scottish Ministers are of the opinion that, by reason of urgency, it is necessary to make the regulations without them being subject to the affirmative procedure.

(3) Regulations which fall within sub-paragraph (2)—

(a) must be laid before the Scottish Parliament as soon as practicable after they are made, and

(b) cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, they are approved by resolution of the Scottish Parliament.

(4) In calculating the period of 28 days, no account is to be taken of any period during which the Scottish Parliament is—

(a) in recess for more than 4 days, or

(b) dissolved.

(5) If regulations cease to have effect as a result of sub-paragraph (3)(b), that does not—

(a) affect anything previously done under the regulations,

(b) prevent the making of new regulations.

(6) Subject to sub-paragraph (3)(b), regulations under paragraph 20(1) cease to have effect at the end of the period of 180 days beginning with the day on which they are made.

(7) Nothing in paragraph (a) or (b) of sub-paragraph (6) prevents the Scottish Ministers—

(a) revoking regulations under paragraph 20(1) before the end of the period mentioned in paragraph (a) or (b) (as the case may be) of sub-paragraph (6),

(b) making further regulations under paragraph 20(1).

PART 10

LEGAL AID

Assessment of claims for interim payment of fees and outlays

5 22 (1) The Legal Aid (Scotland) Act 1986 applies in accordance with the modification in this paragraph.

(2) Section 33 (fees and outlays of solicitors and counsel) has effect as if after subsection (5) there were inserted—

“(6) Subsections (7) to (9) apply where—

10 (a) a solicitor or counsel submits a claim to the Board in respect of fees or outlays incurred by the solicitor or counsel in connection with—

(i) the provision of legal aid by the solicitor or counsel prior to the completion of the proceedings for which the legal aid was granted, or

15 (ii) the provision of advice and assistance by the solicitor or counsel to a person while the advice and assistance is being provided by the solicitor or counsel to the person, and

(b) in submitting the claim, the solicitor or counsel confirms to the Board that the fees or outlays to which the claim relates have been properly incurred by the solicitor or counsel.

20 (7) The fees or outlays to which the claim relates are to be treated as having been properly incurred by the solicitor or counsel for the purposes of subsection (1).

(8) Any sum paid out of the Fund to the solicitor or counsel pursuant to the claim is to be treated as having been paid out of the Fund in accordance with section 4(2)(a).

25 (9) Where the claim is made under regulation 11 of the Civil Legal Aid (Scotland) (Fees) Regulations 1989 (S.I. 1989/1490) in relation to the provision of civil legal aid, the fees to which the claim relates are to be treated, for the purposes of the regulation, as having been necessarily and reasonably incurred in connection with the proceedings for which the legal aid is granted.”.

Recovery of overpayment of interim fees or outlays paid to firms

30 23 (1) The Legal Aid (Scotland) Act 1986 applies in accordance with the modification in this paragraph.

(2) Section 33 (fees and outlays of solicitors and counsel) has effect as if after subsection (9) (inserted by paragraph 22) there were inserted—

35 “(10) Subsection (11) applies where—

(a) a sum is paid out of the Fund after the day on which paragraph 23 of schedule 4 of the Coronavirus (Scotland) Act 2020 comes into force (the “interim payment”) in respect of fees or outlays incurred by a solicitor in connection with—

40 (i) the provision of legal aid by the solicitor prior to the completion of the proceedings for which the legal aid was granted, or

- (ii) the provision of advice and assistance by the solicitor to a person while the advice and assistance is being provided by the solicitor to the person,
- (b) on the instruction of the solicitor, the interim payment is paid by the Board to the firm of the solicitor, and
- (c) on the completion of the proceedings for which the legal aid was granted (or, as the case may be, on the cessation of the advice and assistance by the solicitor to the person), the Board determines that the interim payment exceeds the sum payable out of the Fund to the solicitor under subsection (1) in connection with the provision of the legal aid (or the advice and assistance) by the solicitor.
- (11) The firm of the solicitor is jointly and severally liable with the solicitor for the repayment to the Fund of the excess mentioned in subsection (10)(c).
- (12) Subsection (13) applies where—
- (a) a firm is jointly and severally liable for the repayment of a sum to the Fund under subsection (11) (the “repayment amount”),
- (b) the repayment amount has not been repaid to the Fund,
- (c) a separate sum is due to be paid out of the Fund to any solicitor of the firm (the “amount payable”), and
- (d) the solicitor has instructed the Board to pay the amount payable to the firm.
- (13) The Board may deduct all or part of the repayment amount from the amount payable.”.

Payment of interim fees for civil legal aid to counsel

- 24 (1) The Civil Legal Aid (Scotland) (Fees) Regulations 1989 (S.I. 1989/1490) apply in accordance with the modification in this paragraph.
- (2) Regulation 11 has effect as if paragraph (2) were revoked.

SCHEDULE 5
(introduced by section 6)

ALCOHOL LICENSING

Requirement to hold a hearing

- 1 (1) The Licensing (Scotland) Act 2005 applies in accordance with the modification in this paragraph.
- (2) Section 133 (hearings) has effect as if after subsection (3) there were inserted—
- “(3A) Despite subsection (1), where a Licensing Board is required to, or may, hold a hearing under any provision of this Act, the Board may determine that the hearing cannot be held in person, or at a meeting of the Board, because of a reason relating to coronavirus.

(3B) Where a Licensing Board determines under subsection (3A) that a hearing cannot be held in person, the Board must comply with subsection (3C) before reaching a decision on the matter which would have been the subject of the hearing.

(3C) The Board must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by whichever of the following means the person prefers—

(a) telephone,

(b) written representations, including by means of an electronic communication (as defined in section 15(1) of the Electronic Communications Act 2000),

(c) video conference, if the Board has video conference facilities.

(3D) Where a Licensing Board gives a person an opportunity to be heard under subsection (3C) by telephone, written representations or video conference, and the holding of the hearing by that means would be inconsistent with a requirement imposed by regulations under this Act, the requirement of the regulations is to be construed as permitting the hearing by that means.”

Premises licences

(1) The Licensing (Scotland) Act 2005 applies in accordance with the modifications in this paragraph.

(2) Section 28 (period of effect of premises licence) has effect as if—

(a) in subsection (2), after “section 34(1)”, there were inserted “or if an application for the transfer of the licence is accepted by the Licensing Board under section 34(1A)”,

(b) after subsection (5) there were inserted—

“(5A) For the avoidance of doubt, a licensed premises does not cease to be used for the sale of alcohol, for the purposes of subsection (5)(b), if the premises cease to be used for the sale of alcohol for a temporary period for a reason relating to coronavirus.”

(3) Section 34 (transfer on application of person other than licence holder) has effect as if after subsection (1) there were inserted—

“(1A) If, for a reason relating to coronavirus, a person is unable to apply to the Licensing Board within the period set out in subsection (1), the Board may accept an application that is made after the end of that period.”

(4) Section 39 (licensing board’s powers on review) has effect as if after subsection (3) there were inserted—

“(3A) Where a Licensing Board determines under section 133(3A) that a review hearing cannot be heard in person—

(a) subsection (1) of this section is to have effect as if for “At a review hearing” there were substituted “After having complied with section 133(3C)”, and

(b) subsection (2A) of this section is to have effect as if for “at a review hearing” there were substituted “after having complied with section 133(3C)”.

(5) Section 45 (provisional premises licence) has effect as if—

(a) in subsection (7), at the beginning, there were inserted “Subject to subsection (7A),”

(b) after subsection (7) there were inserted—

“(7A) On the first application of the holder of a provisional premises licence made before the expiry of the provisional period, the Licensing Board which issued the licence must extend the provisional period by 6 months if the Board—

(a) is satisfied as to the matter mentioned in subsection (8), and

(b) is satisfied that the reason for the delay is a reason relating to coronavirus.”, and

(c) in subsection (9), after “subsection (7)” there were inserted “or (7A)”.

(6) Section 54 (dismissal etc. of premises manager) has effect as if—

(a) in subsection (3), for “7 days” there were substituted “28 days”,

(b) for subsection (4)(b) there were substituted—

“(b) either—

(i) within the period of 3 months beginning with the day on which the event occurs, a premises licence variation application is made seeking a variation of the premises licence in respect of the premises so as to substitute another individual as the premises manager, or

(ii) if, for a reason relating to coronavirus, such an application cannot be made within the period mentioned in sub-paragraph (i) but the Licensing Board extends that period on a request from the applicant, such an application is made within that extended period.”.

(7) Section 69 (notification of extended hours application) has effect as if—

(a) after subsection (2) there were inserted—

“(2A) If the chief constable intends to object to an application but is, for a reason relating to coronavirus, unable to give notice of the objection to the Licensing Board within the period mentioned in subsection (2)—

(a) the chief constable must, within that period, make the Board aware of that situation, and

(b) if the chief constable gives notice of the objection after the end of that period, the Board may take the objection into account if the Board considers it reasonable to do so.”,

(b) after subsection (3) there were inserted—

“(3A) If a Licensing Standards Officer is, for a reason relating to coronavirus, unable to prepare and submit a report to the Licensing Board within the period mentioned in subsection (3)—

(a) the Licensing Standards Officer must, within that period, make the Board aware of that situation, and

(b) the Board may take into account a report that is submitted after the end of that period if the Board considers it reasonable to do so.”.

5 (8) Schedule 3 (premises licences: mandatory conditions) has effect as if in paragraph 3—

(a) the existing text were sub-paragraph (1), and

(b) after that sub-paragraph there were inserted—

10 “(2) If food is sold on the premises but the operating plan contained in the licence does not contain an express term to the effect that food may be taken away, or delivered, from the premises for consumption off the premises, a term to that effect is to be implied into the operating plan.”.

Personal licence holders

3 (1) The Licensing (Scotland) Act 2005 applies in accordance with the modifications in this paragraph.

15 (2) Section 77 (period of effect of personal licence) has effect as if—

(a) after subsection (2) there were inserted—

“(2A) Subsection (2B) applies where a personal licence renewal application is made to a Licensing Board and the Board has not determined the application before the expiry date of the licence.

20 (2B) Despite subsection (1), the licence continues to have effect for a period of 6 months beginning on the expiry date of the licence.”, and

(b) in subsection (4), for “subsection (2)” there were substituted “subsections (2), (2A) and (2B)”.

25 (3) Section 78 (renewal of personal licence) has effect as if for subsection (2) there were substituted—

“(2) The period referred to in subsection (1) is—

(a) the period of 9 months beginning 12 months before the expiry date of the licence, or

30 (b) if the Licensing Board is satisfied that, for a reason relating to coronavirus, the holder of the personal licence is unable to apply within the period mentioned in paragraph (a), the period which begins 12 months before the expiry date of the licence and ends on the day before the expiry date of the licence.”.

35 (4) Section 87 (licence holder’s duty to undertake training) has effect as if after subsection (3) there were inserted—

“(3A) For the purposes of subsection (3), a personal licence holder who fails to comply with subsection (1) for a reason relating to coronavirus is to be treated as having complied with subsection (1) if—

40 (a) the Licensing Board which issued the licence extends the period within which the licence holder is to—

(i) comply with any training requirements mentioned in subsection (1), and

- (ii) produce evidence of having so complied, and
 - (b) the licence holder complies with such requirements and produces evidence of having so complied within that extended period.
- (3B) For the purposes of subsection (3A), the Board may extend the period on more than one occasion if this is necessary for a reason relating to coronavirus.”.

Licensing Boards etc.

4 (1) The Licensing (Scotland) Act 2005 applies in accordance with the modifications in subparagraphs (2) to (6).

10 (2) Section 9A (annual functions report) has effect as if after subsection (1) there were inserted—

“(1A) If, for a reason relating to coronavirus, a Licensing Board is unable to comply with subsection (1), the Board must—

15 (a) not later than 3 months after the end of the financial year, publish on its website (or, if it does not have one, on the website of the council for the Board’s area)—

- (i) the fact that the Board is unable to comply with subsection (1) and the reason for that, and
- (ii) the Board’s estimate as to when it will publish the report, and

20 (b) prepare and publish the report not later than 9 months after the end of the financial year.”.

(3) Section 9B (annual financial report) has effect as if after subsection (1) there were inserted—

25 “(1A) If, for a reason relating to coronavirus, a Licensing Board is unable to comply with subsection (1), the Board must—

(a) not later than 3 months after the end of the financial year, publish on its website (or, if it does not have one, on the website of the council for the Board’s area)—

- (i) the fact that the Board is unable to comply with subsection (1) and the reason for that, and
- (ii) the Board’s estimate as to when it will publish the report, and

(b) prepare and publish the report not later than 9 months after the end of the financial year.”.

(4) Section 135 (power to relieve failure to comply with rules and other requirements) has effect as if for subsection (1) there were substituted—

35 “(1) A Licensing Board may relieve any failure by the Board or by any applicant or other party to proceedings before the Board to comply with any procedural provision if—

(a) in the case of a failure by—

- (i) the Board, the failure is due to an excusable cause and that excusable cause relates to coronavirus,

- (ii) any applicant or other party to proceedings before the Board, the failure is due to mistake, oversight or other excusable cause, and
- (b) the Board considers it appropriate in all the circumstances to relieve the failure.”.

5 (5) Schedule 1 (licensing boards) has effect as if—

(a) in paragraph 10—

(i) after sub-paragraph (1) there were inserted—

10 “(1A) If a Licensing Board considers it necessary for a reason relating to coronavirus, the Board may authorise (whether generally or specifically) any committee established by the Board, and consisting of no fewer than 3 members, to exercise on behalf of the Board any of the functions mentioned in sub-paragraph (2).”.

(ii) after sub-paragraph (2) there were inserted—

15 “(2A) For the purposes of sub-paragraph (2)(g), “hearing” includes giving persons an opportunity to be heard in accordance with section 133(3C).”.

(b) in paragraph 11—

(i) after sub-paragraph (2) there were inserted—

20 “(2A) Sub-paragraph (2B) applies if, for a reason relating to coronavirus, a member of a Licensing Board cannot produce to the clerk of the Board evidence of having complied with the requirements mentioned in sub-paragraph (1) within the period mentioned in sub-paragraph (1).

(2B) The member must, no later than one month after the expiry of each 9 month period, produce to the clerk evidence that the member has, during the period, complied with the requirements mentioned in sub-paragraph (1).

25 (2C) In sub-paragraph (2B), “9 month period” means, in relation to a member of a Licensing Board—

(a) the period of 9 months beginning on the day on which the member is elected, and

30 (b) if the member is re-elected, the period of 9 months beginning with the day on which the member is re-elected.”.

(ii) after sub-paragraph (3) there were inserted—

“(3A) Where sub-paragraph (2B) applies in relation to a member of a Licensing Board—

(a) sub-paragraph (3) does not apply to the member,

35 (b) the member must not take part in any proceedings of the Board until the clerk of the Board has briefed the member (in person or otherwise) about—

(i) the role of a member of the Board,

(ii) decision-making by public authorities, and

40 (iii) the different licences governed by this Act.”.

(c) in paragraph 12(1), for “one half” there were substituted “one third”, and

(d) in paragraph 12(2), after “public” there were inserted “unless the Board determines that a meeting cannot be held in public for a reason relating to coronavirus”.

5 (6) In schedule 2 (local licensing forums), paragraph 5(3) has effect as if after “public” there were inserted “unless the Forum determines that a meeting cannot be held in public for a reason relating to coronavirus”.

(7) The Licensing (Training) (Scotland) Regulations 2007 (S.S.I. 2007/95) apply in accordance with the modification in sub-paragraph (8).

10 (8) Regulation 3 (training of Licensing Board members) has effect as if after “3 months” there were inserted “(or, where paragraph 11(2B) of the schedule applies in relation to a member, within 9 months)”.

Modifications of duties of Licensing Standards Officers

5 (1) The Licensing (Scotland) Act 2005 applies in accordance with the modifications in this paragraph.

15 (2) Section 16 (training of licensing standards officers) has effect as if—

(a) after subsection (1) there were inserted—

20 “(1A) Subsections (1B) and (1C) apply if a Licensing Standards Officer is, for a reason relating to coronavirus, unable to comply with a requirement prescribed by regulations under subsection (1) to undertake a course of training within a particular period.

(1B) The period within which the course is to be undertaken—

(a) may be extended, on one or more than one occasion, by the (or each) council which appointed the Officer, but

25 (b) must not be extended beyond the date that is 12 months after the date by which the course would have had to be undertaken were it not for this subsection.

(1C) If a council extends the period—

30 (a) during the period of the extension, the Officer is not to be treated by that council as failing to comply with subsection (1) on the basis of having failed to undertake a course within a particular period, but

(b) at the end of the period of the extension, the Officer is to be treated by that council as failing to comply with subsection (1) if the Officer has not undertaken the course.”, and

35 (b) in subsection (2), at the beginning, there were inserted “Subject to subsection (1C),”.

(3) Section 57 (notification of application to chief constable and licensing standards officer) has effect as if after subsection (3) there were inserted—

40 “(3A) If a Licensing Standards Officer intends to prepare and submit a report but is, for a reason relating to coronavirus, unable to do so within the period mentioned in subsection (3)—

(a) the Officer must, within that period, make the Licensing Board aware of that situation, and

(b) if the Officer submits a report after the end of that period, the Board may take the report into account if the Board considers it reasonable to do so.”.

5 (4) Section 73A (notification of application to licensing standards officer) has effect as if after subsection (2) there were inserted—

“(2A) If a Licensing Standards Officer intends to respond to a notice but is, for a reason relating to coronavirus, unable to do so within 21 days of receipt of the notice—

10 (a) the Officer must, within that period, make the Licensing Board aware of that situation, and

(b) if the Officer responds to the notice after the end of that period, the Board may take the response into account if the Board considers it reasonable to do so.”.

Notifications by the chief constable

15 6 (1) The Licensing (Scotland) Act 2005 applies in accordance with the modifications in this paragraph.

(2) Section 21 (notification of application) has effect as if—

20 (a) in subsection (3), after “subsection (1)(d),” there were inserted “or within such longer period as the chief constable considers reasonable in the circumstances because of a reason relating to coronavirus,”,

(b) after subsection (3) there were inserted—

“(3A) Where the chief constable is not going to respond to a notice within the 21 day period referred to in subsection (3), the chief constable must inform the Licensing Board of—

25 (a) that fact, and

(b) the time period within which the chief constable expects to respond.”.

(3) Section 24 (applicant’s duty to notify licensing board of convictions) has effect as if—

30 (a) in subsection (6), after “subsection (5)(b),” there were inserted “or within such longer period as the chief constable considers reasonable in the circumstances because of a reason relating to coronavirus,”,

(b) after subsection (6) there were inserted—

“(6A) Where the chief constable is not going to respond to a notice within the 21 day period referred to in subsection (6), the chief constable must inform the Licensing Board of—

35 (a) that fact, and

(b) the time period within which the chief constable expects to respond.”.

(4) Section 24A (power to request antisocial behaviour report) has effect as if—

40 (a) in subsection (2), after “request” there were inserted “or within such longer period as the chief constable considers reasonable in the circumstances because of a reason relating to coronavirus,”,

(b) after subsection (2) there were inserted—

“(2A) Where the chief constable is not going to give the report within the 21 day period referred to in subsection (2), the chief constable must inform the Licensing Board of—

(a) that fact, and

(b) the time period within which the chief constable expects to give the report.”.

(5) Section 33 (transfer on application of licence holder) has effect as if—

(a) in subsection (5), after “subsection (4),” there were inserted “or within such longer period as the chief constable considers reasonable in the circumstances because of a reason relating to coronavirus,”,

(b) after subsection (5) there were inserted—

“(5A) Where the chief constable is not going to respond to a notice within the 21 day period referred to in subsection (5), the chief constable must inform the Licensing Board of—

(a) that fact, and

(b) the time period within which the chief constable expects to respond.”.

(6) Section 44 (procedure where licensing board receives notice of conviction) has effect as if—

(a) in subsection (3), after “subsection (2),” there were inserted “or within such longer period as the chief constable considers reasonable in the circumstances because of a reason relating to coronavirus,”,

(b) after subsection (3) there were inserted—

“(3A) Where the chief constable is not going to respond to a notice within the 21 day period referred to in subsection (3), the chief constable must inform the Licensing Board of—

(a) that fact, and

(b) the time period within which the chief constable expects to respond.”.

(7) Section 73 (notification of application to chief constable) has effect as if—

(a) in subsection (2), after “subsection (1),” there were inserted “or within such longer period as the chief constable considers reasonable in the circumstances because of a reason relating to coronavirus,”,

(b) after subsection (2) there were inserted—

“(2A) Where the chief constable is not going to respond to a notice within the 21 day period referred to in subsection (2), the chief constable must inform the Licensing Board of—

(a) that fact, and

(b) the time period within which the chief constable expects to respond.”.

(8) Section 75 (applicant’s duty to notify licensing board of convictions) has effect as if—

(a) in subsection (5), after “subsection (4)(b),” there were inserted “or within such longer period as the chief constable considers reasonable in the circumstances because of a reason relating to coronavirus,”,

(b) after subsection (5) there were inserted—

“(5A) Where the chief constable is not going to respond to a notice within the 21 day period referred to in subsection (5), the chief constable must inform the Licensing Board of—

(a) that fact, and

(b) the time period within which the chief constable expects to respond.”.

(9) Section 83 (procedure where licensing board receives notice of conviction) has effect as if—

(a) in subsection (3), after “subsection (2),” there were inserted “or within such longer period as the chief constable considers reasonable in the circumstances because of a reason relating to coronavirus,”,

(b) after subsection (3) there were inserted—

“(3A) Where the chief constable is not going to respond to a notice within the 21 day period referred to in subsection (3), the chief constable must inform the Licensing Board of—

(a) that fact, and

(b) the time period within which the chief constable expects to respond.”.

Interpretation

(1) The Licensing (Scotland) Act 2005 applies in accordance with the modification in this paragraph.

(2) Section 147 (interpretation) has effect as if after the definition of “community council” there were inserted—

““coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020.”.

Modifications of the Licensing (Procedure) (Scotland) Regulations 2007

(1) The Licensing (Procedure) (Scotland) Regulations 2007 (S.S.I. 2007/453) apply in accordance with the modifications in this paragraph.

(2) The Regulations have effect as if after regulation 12 (timetable for hearings under sections 23(2) and 30(3)) there were inserted—

“Timetable for hearings under sections 23(2) and 30(3): further provision

12A. (1) If, for a reason relating to coronavirus, a Board is unable to hold a hearing under section 23(2) or 30(3) within the period required by regulation 12, the Board must hold the hearing as soon as reasonably practicable after the end of that period.

(2) If a Board determines under section 133(3A) that a hearing cannot be held in person, the Board is to be treated as having held a hearing if the Board complies with section 133(3C).”.

- (4) Section 27 (functions of the court in relation to second-hand dealers convicted of offences) has effect as if after subsection (1) there were inserted—

“(1A) Where an extract cannot be transmitted to the licensing authority within the period required by subsection (1) because of a reason relating to coronavirus, it must be transmitted as soon as reasonably practicable afterwards.”.

- (5) Section 35 (functions of the court in relation to metal dealers convicted of offences) has effect as if after subsection (1) there were inserted—

“(1A) Where an extract cannot be transmitted to the licensing authority within the period specified in subsection (1) because of a reason relating to coronavirus, it must be transmitted as soon as reasonably practicable afterwards.”.

- (6) Section 133 (interpretation) has effect as if after “requires—” there were inserted—

““coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020,”.

- (7) Schedule 1 (licensing: further provisions as to the general system) has effect as if—

(a) in paragraph 2(8), after “the authority” there were inserted “, or by publication of a notice on the licensing authority’s website,”,

(b) in paragraph 8(5A), for “28 days” there were substituted “3 months”,

(c) in paragraph 10(3), the words “to attend and” were repealed,

(d) in paragraph 13(2)(a), for “7 days” there were substituted “14 days”,

(e) after paragraph 13(2) there were inserted—

“(2A) Where a licence cannot be delivered to the licensing authority within the period required by sub-paragraph (2)(a) because of a reason relating to coronavirus, it must be delivered as soon as reasonably practicable afterwards.”,

(f) in paragraph 17(1), for “10 days” there were substituted “15 days”,

(g) after paragraph 17(2) there were inserted—

“(2A) Where a licensing authority cannot give reasons for a decision within the period required by sub-paragraph (1) because of a reason relating to coronavirus, it must—

(a) notify the person who made the request that there will be a delay, and

(b) give the reasons as soon as reasonably practicable after that period.”,

(h) after paragraph 18A there were inserted—

“Further provision about hearings

18B Where by virtue of this schedule a licensing authority is required to, or may, give a person an opportunity to be heard, the authority may determine that the hearing cannot be held in person because of a reason relating to coronavirus.

18C Where a licensing authority determines under paragraph 18B that a hearing cannot be held in person, the authority must comply with paragraph 18D before reaching a decision on the matter which would have been the subject of the hearing.

18D The licensing authority must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by whichever of the following means the person prefers—

(a) telephone,

(b) written representations, including by means of an electronic communication, or

(c) video conference, if the authority has video conference facilities.

18E For the purposes of this schedule, where a licensing authority gives a person an opportunity to be heard by written representations and the hearing is to take place on a particular day, the hearing is to be treated as taking place on the day on which the authority determines that it will consider the written representations (if any), and a reference to the date or day of any such hearing (which is to take place) is to be construed accordingly.

18F Where a licensing authority gives a person an opportunity to be heard under paragraph 18D by telephone, written representations or video conference, and the holding of the hearing by that means would be inconsistent with a requirement imposed by regulations under paragraph 18A, the requirement of the regulations is to be construed as permitting the hearing by that means.”.

(8) Schedule 2 (control of sex shops) has effect as if—

(a) in paragraph 7(2), after “area” there were inserted “, or by publishing an advertisement on the local authority’s website,”,

(b) in paragraph 12(3A), for “28 days” there were substituted “3 months”,

(c) in paragraph 15(3), the words “to attend and” were repealed,

(d) in paragraph 16(2), for “7 days”, in both places where it occurs, there were substituted “14 days”,

(e) after paragraph 16(2) there were inserted—

“(2A) Where a licence cannot be delivered to the local authority within the period required by sub-paragraph (2) because of a reason relating to coronavirus, it must be delivered as soon as reasonably practicable afterwards.”,

(f) in paragraph 23(1), for “10 days” there were substituted “15 days”,

(g) after paragraph 23(2) there were inserted—

“(2A) Where a local authority cannot give reasons for a decision within the period required by sub-paragraph (1) because of a reason relating to coronavirus, it must—

(a) notify the person who made the request that there will be a delay, and

(b) give the reasons as soon as reasonably practicable after that period.”,

(h) after paragraph 24A there were inserted—

“Further provision about hearings

24B Where by virtue of this schedule a local authority is required to, or may, give a person an opportunity to be heard, the authority may determine that the hearing cannot be held in person because of a reason relating to coronavirus.

24C Where a local authority determines under paragraph 24B that a hearing cannot be held in person, the authority must comply with paragraph 24D before reaching a decision on the matter which would have been the subject of the hearing.

24D The local authority must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by whichever of the following means the person prefers—

(a) telephone,

(b) written representations, including by means of an electronic communication, or

(c) video conference, if the authority has video conference facilities.

24E For the purposes of this schedule, where a local authority gives a person an opportunity to be heard by written representations and the hearing is to take place on a particular day, the hearing is to be treated as taking place on the day on which the authority determines that it will consider the written representations (if any), and a reference to the date or day of any such hearing (which is to take place) is to be construed accordingly.

24F Where a local authority gives a person an opportunity to be heard under paragraph 24D by telephone, written representations or video conference, and the holding of the hearing by that means would be inconsistent with a requirement imposed by regulations under paragraph 24A, the requirement of the regulations is to be construed as permitting the hearing by that means.”.

(9) The Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Order 2006 (S.S.I. 2006/43) applies in accordance with the modification in subparagraph (10).

(10) In the schedule (application of Part 1 of the 1982 Act), paragraph 2 has effect as if for the number “6”, in both places where it occurs, there were substituted “9”.

PART 2

FREEDOM OF INFORMATION

Interpretation

2 In this Part (other than this paragraph)—

(a) references to sections and Parts are to sections and Parts of the Freedom of Information (Scotland) Act 2002, and

(b) expressions used in this Part and in that Act have the same meaning as in that Act.

Time periods for responding to requests

3 (1) Section 10 (time for compliance) has effect as if modified as follows—

(a) in subsection (1), for “twentieth” there were substituted “sixtieth”,

(b) in subsection (2), in the closing text, for—

(i) “twentieth” there were substituted “sixtieth”,

- (ii) “thirtieth” there were substituted “seventieth”,
 - (c) in subsection (3), in the closing text, for—
 - (i) “twentieth” there were substituted “sixtieth”,
 - (ii) “thirtieth” there were substituted “seventieth”.
- 5 (2) Section 21 (review by Scottish public authority) has effect as if modified as follows—
 - (a) in subsection (1), for “twentieth” there were substituted “sixtieth”,
 - (b) in subsection (2), in the closing text, for—
 - (i) “twentieth” there were substituted “sixtieth”, and
 - (ii) “thirtieth” there were substituted “seventieth”.
- 10 4 The Freedom of Information (Scotland) Act 2002 (Time for Compliance) Regulations 2016 (S.S.I. 2016/346) have no effect.

Extension of periods in which authorities may respond

- 5 (1) A Scottish public authority may extend a relevant period by a further period of up to 40
15 working days if it determines that it is not reasonably practicable to respond to the
request within the relevant period because of—
 - (a) the volume and complexity of the information requested, or
 - (b) the overall number of requests being dealt with by the authority at the time that
the request is made.
- (2) Where sub-paragraph (1) applies, the Scottish public authority must notify the applicant
20 of its determination promptly and in any event no later than before the relevant period
expires.
- (3) Notice under sub-paragraph (2) must—
 - (a) be in writing,
 - (b) give the authority’s reasons for considering that sub-paragraph (1)(a) or (b)
25 applies, and
 - (c) contain particulars about the right to a requirement for review under section 20(1)
or, as the case may be, the right to apply to the Commissioner under section 47(1).
- (4) For the purposes of this paragraph and paragraph 6, “relevant period”, in relation to a
30 request for information (or a subsequent requirement for review), means a period
specified in section 10(1) or section 21(1) as those periods have effect by virtue of
paragraph 3.
- 6 (1) This paragraph applies where the Scottish Ministers are of the view that the exercise of
the powers conferred by this paragraph will enable Scottish public authorities to better
utilise resources to respond to coronavirus.
- 35 (2) The Scottish Ministers may by direction specify further circumstances in which a
Scottish public authority may extend a relevant period.
- (3) Before giving a direction under sub-paragraph (2), the Scottish Ministers must consult
the Commissioner.

- (4) The Scottish Ministers may vary or revoke a direction given under sub-paragraph (2) by giving another direction.
- (5) The Scottish Ministers must—
- (a) publish a direction given by them under this paragraph in such manner as they consider appropriate, and
- (b) give a copy of the direction to the Commissioner.

Commissioner’s ability to take account of impact of coronavirus

- (1) This paragraph applies in relation to an application made under section 47(1) (which is not excluded by section 48) in respect of which there is a failure of the Scottish public authority to comply with a relevant period.
- (2) Despite section 49(6), the Commissioner may decide that the Scottish public authority has not failed to comply with Part 1 by reason only of its failure to comply with a relevant period if the Commissioner is satisfied that the failure was—
- (a) due to the effect of coronavirus on the authority generally or its ability to carry out its functions (including any action it had to take to better utilise its resources to deal with the effect of coronavirus), and
- (b) reasonable in all the circumstances.
- (3) For the purposes of this paragraph, “relevant period”, in relation to a request for information (or a subsequent requirement for review), means a period specified in section 10(1) or section 21(1), either as it has effect by virtue of paragraph 3 or otherwise.

Giving notice electronically

- Section 74(1)(a) (giving of notice etc.) has effect as if modified so that after sub-paragraph (ii) there were inserted “, or
- (iii) transmitted by electronic means,”.

PART 3

DUTIES IN RESPECT OF REPORTS AND OTHER DOCUMENTS

Power to postpone publication and laying of reports

- (1) This paragraph applies to a statutory duty (however expressed)—
- (a) that is within the legislative competence of the Scottish Parliament to amend, and
- (b) that requires the Scottish Ministers or a Scottish public authority to publish, or to publish and lay before the Scottish Parliament, a report (and any other associated documents) in connection with the exercise of their or its functions on or by a particular date while this paragraph is in force.
- (2) The Scottish Ministers or the Scottish public authority may decide to postpone complying with the duty if they or, as the case may be, it are of the view that complying would be likely to impede their or, as the case may be, its ability to take effective action to prevent, protect against, delay or otherwise control the incidence or transmission of coronavirus.

- (3) Where the Scottish Ministers decide or, as the case may be, a Scottish public authority decides to postpone complying with the duty they or it must publish a statement to that effect in such manner as they consider or it considers appropriate—
- (a) on or before the date by which the report is due, or
 - (b) as soon as reasonably practicable after the date.
- (4) A statement published under sub-paragraph (3) must indicate that the report will be published in accordance with paragraph 11(2).
- (5) This paragraph does not apply to—
- (a) a duty contained in this Act,
 - (b) accounts or associated documents required under section 19 or 20 of the Public Finance and Accountability (Scotland) Act 2000 (see paragraph 16),
 - (c) any other document in respect of which there is a statutory duty to publish or publicise it, lay it before the Scottish Parliament or otherwise make it available (see paragraph 10).

Power to publish or make available documents for inspection electronically

- 10 (1) This paragraph applies to a statutory duty (however expressed)—
- (a) that is within the legislative competence of the Scottish Parliament to amend, and
 - (b) that requires the Scottish Ministers or a Scottish public authority to—
 - (i) publish or publicise a document (other than by electronic means),
 - (ii) lay a document (or a copy of it) before the Scottish Parliament,
 - (iii) give notice of where a document may be inspected,
 - (iv) make available a document for inspection in a particular manner.
- (2) The Scottish Ministers or, as the case may be, the Scottish public authority may decide not to comply with the duty if they or, as the case may be, it are of the view that doing so—
- (a) may give rise to a significant risk of the transmission of coronavirus, or
 - (b) is likely to be ineffective or inappropriate due to action taken in order to control the incidence or transmission of coronavirus.
- (3) Where the Scottish Ministers or, as the case may be, a Scottish public authority decide not to comply with the duty they or it must (if possible)—
- (a) publish the document in such electronic format as they consider or it considers appropriate (for example on their or its website),
 - (b) make the document (or the information contained in it) available for inspection by electronic means (for example on their or its website),
 - (c) give notice by electronic means of where a document (or the information contained in it) may be inspected, which notice may specify an electronic means (such as publication on a particular website) as the place where the document (or information) may be inspected,

as appropriate, having regard to the nature of the duty in question.

(4) If the Scottish Ministers or, as the case may be, a Scottish public authority decide not to comply with the duty and consider that it is not possible to use a means listed in sub-paragraph (3), they or it must publish a statement to that effect in such manner as they consider or it considers appropriate.

5 (5) Where the duty is accompanied by a requirement that the Scottish Ministers or, as the case may be, a Scottish public authority must make a statement to the Scottish Parliament in respect of the document on a particular date or within a particular period, it is sufficient for the statement to be made as soon as reasonably practicable.

(6) This paragraph does not apply to—

- 10 (a) accounts or associated documents required under section 19 or 20 of the Public Finance and Accountability (Scotland) Act 2000 (see paragraph 16), or
- (b) reports required in connection with the exercise of functions by the Scottish Ministers or a Scottish public authority and in respect of which there is a statutory duty to publish or lay before the Scottish Parliament (see paragraph 9).

15 *Resumption of duties in relation to reports and documents*

11 (1) Sub-paragraph (2) applies where the Scottish Ministers or, as the case may be, a Scottish public authority have made a decision under paragraph 9(2) to postpone complying with a duty.

20 (2) The Scottish Ministers or, as the case may be, the Scottish public authority must comply with the duty as soon as reasonably practicable.

(3) Sub-paragraph (4) applies where—

- 25 (a) the Scottish Ministers or, as the case may be, a Scottish public authority made a decision under paragraph 10(2) not to comply with a duty, and
- (b) they consider or it considers that there is no longer a significant risk of the transmission of coronavirus.

(4) The Scottish Ministers or, as the case may be, the Scottish public authority must—

- 30 (a) in a case where the duty is to lay a document before the Scottish Parliament, comply with the duty as soon as reasonably practicable,
- (b) in any other case—
- (i) take such steps as they consider or it considers necessary to comply with the duty, or
- (ii) publish a statement indicating that they are or it is not complying and setting out the reasons for not doing so (such as having done so by electronic means).

35

PART 4

LOCAL AUTHORITY MEETINGS

Introductory

12 This Part contains temporary modifications of the Local Government (Scotland) Act 1973 in relation to—

- (a) the grounds for the exclusion of the public from meetings of local authorities,
- (b) the provision of copies of documents in respect of meetings of local authorities.

Interpretation

13 In this Part (other than this paragraph)—

- 5 (a) references to sections are to sections of the Local Government (Scotland) Act 1973 (“the 1973 Act”), and
- (b) expressions used in this Part and in that Act have the same meaning as in that Act.

Grounds for exclusion of the public from meetings of local authorities

10 14 (1) Section 50A (admission to meetings of local authorities) applies in accordance with the modifications in this paragraph.

- (2) Subsection (1) has effect as if, after “(2)”, there were inserted “or (3A)”.
- (3) The section has effect as if, after subsection (3), there were inserted—

15 “(3A) The public are to be excluded from a meeting of a local authority whenever it is likely that, if members of the public were present, there would be a real and substantial risk to public health due to infection or contamination with coronavirus.

(3B) In subsection (3A), “coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020.”.

Photographic copies of documents in respect of meetings of local authorities

20 15 Section 50H(2)(b) (supplemental provisions and offences) has effect as if modified so that after “extracts from the document” there were inserted “if reasonably practicable”.

PART 5

DUTIES UNDER THE PUBLIC FINANCE AND ACCOUNTABILITY (SCOTLAND) ACT 2000

25 16 (1) The 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.

(2) In particular, the regulations may make provision about—

- 30 (a) the timescales in which accounts must be provided,
- (b) the provision of information and documents by electronic means,
- (c) the manner in which accounts and any other relevant documents are to be published.

- (3) The Scottish Ministers may by regulations provide that regulations made under sub-paragraph (1) are to apply (with or without modification) to the financial year ending with 31 March 2022.
- (4) Before making regulations under this paragraph, the Scottish Ministers must consult the Auditor General for Scotland.
- (5) Regulations under this paragraph—
- (a) must be laid before the Scottish Parliament as soon as practicable after they are made, and
 - (b) cease to have effect at the end of the period of 28 days beginning with the day on which they are made unless, during that period, they are approved by resolution of the Scottish Parliament.
- (6) In calculating the period of 28 days, no account is to be taken of any period during which the Scottish Parliament is—
- (a) in recess for more than 4 days, or
 - (b) dissolved.
- (7) If regulations cease to have effect as a result of sub-paragraph (5)(b), that does not—
- (a) affect anything previously done under the regulations,
 - (b) prevent the making of new regulations.

SCHEDULE 7
(introduced by section 8)

OTHER MEASURES IN RESPONSE TO CORONAVIRUS

Social security

- 1 The Social Security (Scotland) Act 2018—
- (a) is amended by paragraphs 2 to 4, and
 - (b) applies in accordance with the modifications in paragraph 5.
- 2 In section 41 (right to request re-determination)—
- (a) in subsection (2)(b), after “(4)” insert “(read with section 52A)”,
 - (b) in subsection (4)(b)(ii), after “determination” insert “(but see section 52A)”.
- 3 In section 48 (deadline for appealing), in subsection (1)(c) after “occurred” insert “(but see section 52A)”.
- 4 After section 52 insert—

“Coronavirus: relaxation of deadlines

52A Re-determination and appeal deadlines

- (1) A request for a re-determination satisfies the condition in subsection (4) of section 41, despite being made after the expiry of the period described in paragraph (b) of that subsection, if the person deciding whether the individual has a good reason for not requesting a re-determination sooner decides that the individual has a good reason that is related to coronavirus.

5 (2) An appeal may be brought under section 46, despite the appeal application being made after the expiry of the period described in paragraph (c) of subsection (1) of section 48, if the First-tier Tribunal gives permission for the appeal to be brought under paragraph (b) of that section on the basis of being satisfied that the good reason for the application not being made sooner is related to coronavirus.

(3) Any provision of Scottish Tribunal Rules that would (but for this subsection) have the effect of precluding an appeal being brought by virtue of subsection (2) is to be disregarded to the extent that it would have that effect.

10 (4) In this section, “coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020.

52B Applications for assistance

15 (1) Subsection (2) applies where regulations under Chapter 2 make an individual’s eligibility for assistance in respect of a period or event depend (in any way) on an application being made by a particular time.

(2) The person determining an individual’s entitlement to the assistance may treat the individual’s application as having been made by that time if satisfied that the reason for its not being made sooner is related to coronavirus.

20 (3) For the avoidance of doubt, regulations that make a person’s age at the time of making an application material to the determination of an individual’s entitlement to assistance are to be understood to make the individual’s eligibility depend on the application being made by a particular time (namely the time at which the person ceases to be the specified age or fall within the specified age bracket).

25 (4) In this section, “coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020.”

5 Section 43 (duty to re-determine) has effect as if—

(a) in subsection (2), after “the determination” there were inserted “as soon as reasonably practicable”,

30 (b) after subsection (5) there were inserted—

“(5A) Any regulations under subsection (5) prescribing a period, that are made before paragraph 5 of schedule 7 of the Coronavirus (Scotland) Act 2020 comes into force, are to be read as though they prescribed a period 9 weeks longer than the period actually prescribed.”

35 *Irritancy clauses in commercial leases: non-payment of rent or other sums due*

6 The Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 applies in accordance with the modifications in paragraph 7.

7 Section 4 (irritancy clauses etc. relating to monetary breaches of lease) has effect as if—

(a) in subsection (3)(a) and (b), for “days” there were substituted “weeks”,

40 (b) after subsection (3) there were inserted—

“(3A) The Scottish Ministers may, by regulations, amend the period referred to in paragraphs (a) and (b) of subsection (3).

(3B) Regulations under subsection (3A) are subject to the negative procedure.”,

(c) after subsection (5) there were inserted—

“(5A) This section applies regardless of whether the circumstances referred to in paragraph (a) or (b) of subsection (1), in which a landlord is entitled to terminate a lease, occurred before or after the date on which paragraph 7 of schedule 7 of the Coronavirus (Scotland) Act 2020 came into force.

(5B) A notice served under subsection (2) before the date on which paragraph 7 of schedule 7 of the Coronavirus (Scotland) Act 2020 came into force becomes void if, by that date, the time period specified in the notice has not yet expired.”.

Duration of planning permission

8 The Town and Country Planning (Scotland) Act 1997 applies in accordance with the modifications in paragraphs 9 and 10.

9 Section 58 (duration of planning permission) has effect as if after subsection (3A) there were inserted—

“(3B) During the emergency period, a planning permission which otherwise would lapse under subsection (1) or (2) lapses at the end of the extended period, unless, before the end of the extended period, the development to which the permission relates is begun.

(3C) In subsection (3B)—

“emergency period” means the period of 6 months beginning with the date on which paragraph 9 of schedule 7 of the Coronavirus (Scotland) Act 2020 came into force,

“extended period” means the period of 12 months beginning with that date.

(3D) The Scottish Ministers may, by regulations, amend the definition of “emergency period” or “extended period” in subsection (3C).

(3E) Regulations under subsection (3D) are subject to the negative procedure.”.

10 Section 59 (planning permission in principle) has effect as if after subsection (8) there were inserted—

“(8A) During the emergency period, a planning permission which otherwise would lapse under subsection (4) (including by virtue of a direction made under subsection (5)) lapses at the end of the extended period, unless, before the end of the extended period, the development to which the permission relates is begun.

(8B) Where the latest date by which an application would otherwise be required to be made under subsection (2)(a) falls within the emergency period, then that application may be made at any time before the end of the extended period.

(8C) In subsections (8A) and (8B)—

“emergency period” means the period of 6 months beginning with the date on which paragraph 10 of schedule 7 of the Coronavirus (Scotland) Act 2020 came into force,

“extended period” means the period of 12 months beginning with that date.

(8D) The Scottish Ministers may, by regulations, amend the definition of “emergency period” or “extended period” in subsection (8C).

(8E) Regulations under subsection (8D) are subject to the negative procedure.”.

Electronic delivery of copy of deed to Registers of Scotland

11 The Land Registration etc. (Scotland) Act 2012 applies in accordance with the modification in paragraph 12.

12 Section 21 (application for registration of deed) has effect as if after subsection (4) there were inserted—

“(5) For the purposes of this section, submission by electronic means of a copy of the deed is sufficient evidence of the original for the purposes of accepting an application for registration.

(6) But subsection (5) applies only where submission of the copy is by a means (and in a form) which is specified on the Keeper’s website as being acceptable.

(7) In subsection (5), references to submission by electronic means are to submission—

(a) by means of an electronic communications network (for example as an attachment to an email), or

(b) by other means but in a form which requires the use of electronic apparatus by the recipient to render the thing delivered intelligible.

(8) In subsection (7)(a), “electronic communications network” has the meaning given by section 32 of the Communications Act 2003.”.

13 The Land Registers (Scotland) Act 1868 applies in accordance with the modifications in paragraph 14.

14 Section 6A (writs transmitted electronically to Register of Sasines) has effect as if—

(a) in subsection (1), the words “which is an electronic document” were repealed,

(b) after subsection (5) there were inserted—

“(6) For the purposes of this section, submission by electronic means of a copy of the writ is sufficient evidence of the original for the purposes of accepting an application.

(7) But subsection (6) applies only where submission of the copy is by a means (and in a form) which is specified on the Keeper’s website as being acceptable.

(8) In subsection (6), references to submission by electronic means are to submission—

(a) by means of an electronic communications network (for example as an attachment to an email),

(b) by other means but in a form which requires the use of electronic apparatus by the recipient to render the thing delivered intelligible.

(9) In subsection (8)(a), “electronic communications network” has the meaning given by section 32 of the Communications Act 2003.”.

Land registration: period of effect of advance notice

15 Paragraph 16 applies to an advance notice within the meaning of section 56 of the Land Registration etc. (Scotland) Act 2012 (“the 2012 Act”) entered in the application record and that had effect by virtue of section 58(1) of that Act on 24 March 2020.

5 16 The advance notice is to be treated as having continued and continuing to have effect from that date until the end of the period ending 10 days after the day on which the Keeper of the Registers of Scotland (the “Keeper”) declares the application record (within the meaning of section 15 of the 2012 Act) fully open for the making of entries.

10 17 Paragraph 18 applies to an advance notice within the meaning of section 56 of the 2012 Act recorded in the Register of Sasines and that had effect by virtue of section 58(1) of that Act on 24 March 2020.

15 18 The advance notice is to be treated as having continued and continuing to have effect from that date until the end of the period ending 10 days after the day on which the Keeper of the Registers of Scotland declares the Register of Sasines fully open for the recording of entries.

19 Section 58 of the 2012 Act (period of effect of advance notice) has effect as if modified as follows—

(a) after subsection (1) there were inserted—

20 “(1A) If the application record is closed for the making of all entries as a result of coronavirus, an advance notice which has effect on the day the application record is closed is to have effect until the later of—

(a) the end of the period specified in section 58(1),

(b) the end of the period ending 10 days after the day on which the Keeper declares the application record fully open for the making of entries.

25 (1B) If the Register of Sasines is closed for the making of all entries as a result of coronavirus, an advance notice which has effect on the day the Register of Sasines is closed is to have effect until the later of—

(a) the end of the period specified in section 58(1),

30 (b) the end of the period ending 10 days after the day on which the Keeper declares the application record fully open for the recording of entries.

(1C) If the application record is closed for the making of some entries as a result of coronavirus, an advance notice which is entered in the application record during the period that the application record is closed in part is to have effect until the later of—

35 (a) the end of the period specified in section 58(1),

(b) the end of the period ending 10 days after the day on which the Keeper declares the application record fully open for the making of entries.

40 (1D) If the Register of Sasines is closed for the recording of some entries as a result of the coronavirus, an advance notice which is recorded during the period that the Register of Sasines is closed in part is to have effect until the later of—

(a) the end of the period specified in section 58(1),

(b) the end of the period ending 10 days after the day on which the Keeper declares the Register of Sasines fully open for the making of entries.”,

(b) in subsection (2), for “subsection (1)” there were substituted “subsections (1), (1A), (1B), (1C) and (1D).”,

(c) after subsection (7) there were inserted—

“(8) In this section, “coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020.”.

Anatomy Act 1984: extension of periods

20 The Anatomy Act 1984 applies in accordance with the modifications in paragraphs 21 and 22.

21 Section 4B (lawful examinations: further provision) has effect as if after subsection (3) there were inserted—

“(3A) For the purposes of subsections (2) and (3), if the statutory period would otherwise expire during the period in which paragraph 21 of schedule 7 of the Coronavirus (Scotland) Act 2020 has effect, the period expires instead on the day on which that paragraph ceases to have effect.”.

22 Section 5 (control of possession after examination) has effect as if—

(a) subsection (1)(b) were repealed,

(b) after subsection (1) there were inserted—

“(1A) For the purposes of subsection (1)(c)(iii), if the period of 3 years would otherwise elapse during the period in which paragraph 22 of schedule 7 of the Coronavirus (Scotland) Act 2020 has effect, the period is to be treated as elapsing instead on the day on which that paragraph ceases to have effect.”.

Scrutiny of subordinate legislation in urgent cases

23 Subordinate legislation which—

(a) is to be made by Scottish statutory instrument, and

(b) would (but for this paragraph) be subject to the affirmative procedure,

may be made without being subject to that procedure if the person making the legislation considers that necessary by reason of urgency.

24 A Scottish statutory instrument containing subordinate legislation made in accordance with paragraph 23 must state that the person who made it considered it necessary, by reason of urgency, to make the legislation in accordance with paragraph 23.

25 Where subordinate legislation is made in accordance with paragraph 23, the following do not apply—

(a) a requirement to take any steps before or when laying a draft Scottish statutory instrument containing the legislation before the Scottish Parliament in accordance with section 29(2) of the Interpretation and Legislative Reform (Scotland) Act 2010,

(b) a requirement to take any steps while a draft Scottish statutory instrument containing the legislation is lying before the Parliament in accordance with that section,

(c) any other requirement to take steps before making the subordinate legislation.

- 26 Subordinate legislation made in accordance with paragraph 23 must be laid before the Scottish Parliament as soon as reasonably practicable after it is made.
- 27 Subordinate legislation made in accordance with paragraph 23 ceases to have effect at the end of the period of 28 days beginning with the day on which it is made unless, during that period, the legislation is approved by resolution of the Scottish Parliament.
- 5
- 28 In calculating the period of 28 days for the purpose of paragraph 27, no account is to be taken of any period during which the Scottish Parliament is—
- (a) in recess for more than 4 days, or
 - (b) dissolved.
- 10 29 If subordinate legislation ceases to have effect as a result of paragraph 27, that does not—
- (a) affect the validity of anything previously done under the legislation, or
 - (b) prevent the making of new subordinate legislation.
- 15 30 (1) In paragraphs 23 to 29, “subordinate legislation” includes an instrument to be made under any retained direct EU legislation on or after exit day (within the meaning of the European Union (Withdrawal) Act 2018 (see section 20(1) to (5) of that Act)).
- (2) Paragraphs 23 to 29 do not apply to regulations to be made under paragraph 20(1) of schedule 4.

Business improvement districts: extension of certain arrangements

- 20 31 (1) This paragraph applies to BID arrangements if—
- (a) they are in force on the day on which this paragraph comes into force, and
 - (b) on that day, the period specified in the arrangements as the period for which they are in force is due to end on a date (“the current expiry date”) that is before 31 March 2021.
- 25 (2) But this paragraph does not apply to those BID arrangements if—
- (a) a ballot for the renewal of the arrangements has taken place in accordance with section 45(2) of the 2006 Act before the day on which this paragraph comes into force, and
 - (b) the result of the ballot is that the renewal of the arrangements is approved.
- 30 (3) BID arrangements to which this paragraph applies are to be read as if—
- (a) the period specified in the arrangements as the period for which they are in force ended on 31 March 2021,
 - (b) the arrangements specified a chargeable period (“the 2021 chargeable period”)—
 - (i) beginning on the day after the current expiry date, and
 - (ii) ending on 31 March 2021,
 - (c) the arrangements provided for the amount of BID levy chargeable for the 2021 chargeable period—
 - (i) to be calculated in the same manner as for the last chargeable period, and
 - (ii) to be apportioned on a just and reasonable basis, where the 2021 chargeable period is not the same length as the last chargeable period, and
- 40

(d) the description of eligible ratepayers and any eligible other persons specified in the arrangements as liable for BID levy for the 2021 chargeable period were the same as that specified for the last chargeable period.

- 5 (4) For the purpose of sub-paragraph (3), “the last chargeable period” is the last chargeable period specified in the BID arrangements to end on or before the current expiry date.
- (5) The requirement in section 45(1) of the 2006 Act that the period for which BID arrangements have effect may not exceed 5 years does not apply to BID arrangements to the extent that the period specified in the arrangements is to be read as being extended by virtue of sub-paragraph (3)(a).
- 10 (6) Nothing in this paragraph prevents the termination or alteration of BID arrangements in accordance with regulations under section 45(4) of the 2006 Act.
- (7) In this paragraph—
- “the 2006 Act” means the Planning etc. (Scotland) Act 2006,
- “the 2021 chargeable period” has the meaning given in sub-paragraph (3)(b),
- 15 “BID arrangements” has the same meaning as it has in Part 9 of the 2006 Act,
- “BID levy”, “chargeable period”, “eligible ratepayer” and “eligible other person” have the same meaning as they have in the Planning etc. (Scotland) Act 2006 (Business Improvement Districts Levy) Order 2007 (S.I. 2007/772),
- “the last chargeable period” has the meaning given in sub-paragraph (4).

Coronavirus (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision in connection with coronavirus; and for connected purposes.

Introduced by: Michael Russell
On: 31 March 2020
Bill type: Government Bill

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