



The Scottish Parliament
Pàrlamaid na h-Alba

COVID-19 Recovery Committee

The Rt. Hon. Sir Jack Beatson FBA
Chair
Independent Commission on
UK Public Health Emergency Powers
Bingham Centre for the Rule of Law
Charles Clore House
17 Russell Square
London, WC1B 5JP

Scottish Parliament
T3.60
Edinburgh
EH99 1SP
0131 348 6226
(RNID Typetalk calls welcome)
(Central) Textphone: 0131-348-5415
covid19.committee@parliament.scot

By e-mail:

20th March 2023

Dear Rt. Hon. Sir Jack Beatson FBA,

I am writing on behalf of the COVID-19 Recovery Committee ('the Committee') in response to the Independent Commission on UK Public Health Emergency Powers' ('the Commission') call for evidence.

The COVID-19 pandemic has spanned two parliamentary sessions in Scotland (Session 5: 12 May 2016 – 4 May 2021; Session 6: 13 May 2021 –). For this reason, I have provided information that relates both to the Committee's work in Session 6, as well as its predecessor in Session 5.

The COVID-19 Recovery Committee (Session 6)

The Committee was established by the Scottish Parliament on 15th June 2021.¹ The Committee's remit is to consider and report on matters relating to COVID-19 falling within the responsibility of the Cabinet Secretary for COVID Recovery and other Scottish Ministers where relevant, including—

- (a) Cross government coordination of COVID-19 recovery policies and strategic review;
- (b) the operation of powers under the Coronavirus (Scotland) Act, the Coronavirus Act and any other legislation in relation to the response to COVID-19;

¹ [S6M-00393](#) George Adam: Establishment of Committees.

- (c) any secondary legislation arising from the Coronavirus (Scotland) Act; and
- (d) and any other legislation or policy in relation to the response to COVID-19.

The Scottish Parliament agreed that the Committee would have six members and that the Convener would be a member of the Scottish National Party and the Deputy Convener would be a member of the Scottish Conservative and Unionist Party. The Committee was established for the duration of the whole session of the Parliament.

Primary legislation

The Committee was designated as the lead committee on the following bills under Standing Orders Rules 9.6.1, 9.7.1(a) and 9.7.1(b)—

- [Coronavirus \(Discretionary Compensation for Self-isolation\) \(Scotland\) Bill](#) (introduced on 15 November 2021)
- [Coronavirus \(Recovery and Reform\) \(Scotland\) Bill](#) (introduced on 25 January 2022)

The Committee reported on these bills at Stage 1, which the Commission can find using the links provided below—

- [Stage 1 Report on the Coronavirus \(Discretionary Compensation For Self-Isolation\) \(Scotland\) Bill](#)²
- [Stage 1 Report on the Coronavirus \(Recovery and Reform\) \(Scotland\) Bill](#)³

The Committee's report on the Coronavirus (Recovery and Reform) Bill included consideration of how the modifications of the Public Health etc. (Scotland) Act 2008 related to the previous temporary emergency COVID-19 legislation in Scotland. It also considered changes that were introduced in international law with the International Health Regulations 2005 and how these were implemented in Public Health (Control of Disease) Act 1984 in England and Wales and Public Health etc. (Scotland) Act 2008 in Scotland.

The Committee considered and debated amendments to these and other provisions at Stage 2, which the Commission can review on the Bill webpage.⁴

Secondary legislation

The Committee was also designated as the lead committee on secondary legislation enacted using the powers conferred to Scottish Ministers by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020 ('Schedule 19 Regulations');⁵ and sections 94(1)(b)(i) and 122(2) of the Public Health etc. (Scotland) Act 2008.⁶

² COVID-19 Recovery Committee. 1st Report, 2022 (Session 6). *Stage 1 Report on The Coronavirus (Discretionary Compensation for Self-isolation) (Scotland) Bill* (SP Paper 78).

³ COVID-19 Recovery Committee. 6th Report, 2022 (Session 6). *Stage 1 Report on the Coronavirus (Recovery and Reform) (Scotland) Bill* (SP Paper 161).

⁴ Coronavirus (Recovery and Reform) (Scotland) Bill. Accessed at: <https://www.parliament.scot/bills-and-laws/bills/coronavirus-recovery-and-reform-scotland-bill>.

⁵ Coronavirus Act 2020 (c. 7).

⁶ Public Health etc. (Scotland) Act 2008 (asp 5).

The Schedule 19 Regulations were usually laid using the made affirmative procedure. Under a scrutiny arrangements agreed in the previous session,⁷ the First Minister would update the Scottish Parliament on any forthcoming emergency secondary legislation in a Ministerial statement in the Chamber on Tuesday afternoons. A draft version of the instrument would be provided to the Committee on Wednesday afternoons by 4pm to be considered in draft during the Committee’s meeting on Thursday morning.

The final version of the instrument would then be laid using the made affirmative procedure after the Committee’s meeting and the laid version of the instrument would be formally considered by the Committee at a future meeting and within the 28-day timescale provided for in the legislation.

The Committee took evidence from Scottish Ministers on this legislation in agenda items entitled “Ministerial statement on COVID-19 and subordinate legislation”. The Commission can view the written transcripts of these meetings on the Scottish Parliament’s website.⁸ The frequency of these evidence sessions varied according to evolving public health situation and volume of legislation.

The Committee undertook an inquiry and public engagement related to the emergency Coronavirus legislation, including—

- [Vaccination certification inquiry](#)
- [Public questions on COVID-19 in Scotland](#)

The Committee considered other secondary legislation within its remit and the details of these instruments can be found in the Committee’s meeting papers and reports on the Scottish Parliament’s website.⁹ The Commission may also find it helpful to review the Committee’s annual report, which includes an overview of the secondary legislation the Committee considered in the relevant reporting period—

- [Annual Report 2021-22](#)¹⁰

Advisers

The Commission will note from the Annual Report 2021-22 that the Committee has appointed the following advisers to support its scrutiny of the emergency legislation—

- Professor Helen Stagg, Professor of Infectious Disease Epidemiology, London School of Hygiene & Tropical Medicine
- Professor Peter Donnelly, Professor of Public Health Medicine and Director of the Sir James Mackenzie Institute, University of St Andrews

⁷ [Parliamentary Bureau. 17 November 2020. PB/S5/20/168](#). See also: [Parliamentary Bureau. 17 November 2020. PB/S5/20/MINS/37](#).

⁸ COVID-19 Recovery Committee: Meetings. Available at: <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-covid19-recovery-committee/meetings>.

⁹ COVID-19 Recovery Committee. Available at: <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-covid19-recovery-committee>.

¹⁰ COVID-19 Recovery Committee. 8th Report, 2022 (Session 6). COVID-19 Recovery Committee: Annual Report 2021-22 (SP Paper 174).

- Professor Susie Dunachie, National Institute for Health Research Global Research Professor, University of Oxford

More information about the Committee’s work can be found on its website.¹¹

Committees of the whole parliament (Session 6)

In Session 6, the Scottish Parliament agreed to treat the following as emergency bills under Standing Orders Rule 9.21.1—

- [Coronavirus \(Extension and Expiry\) \(Scotland\) Bill](#) (introduced on 18 June 2021)¹²

This Bill was considered by a committee of the whole parliament at Stages 1 and 2, rather than the Committee.

The COVID-19 Committee (Session 5)

The Committee’s predecessor committee, the COVID-19 Committee (‘the Session 5 Committee’), was established on 21 April 2020 in Session 5.¹³ Its remit was to consider and report on the Scottish Government’s response to COVID-19, including the operation of powers under the Coronavirus (Scotland) Act, the Coronavirus Act and any other legislation in relation to the response to COVID-19, any secondary legislation arising from the Coronavirus (Scotland) Act, and any other legislation in relation to the response to COVID-19.

The Scottish Parliament agreed that it would have nine members and the Convener would be a member of the Scottish Conservative and Unionist Party and the Deputy Convener would be a member of the Scottish Labour Party. The Committee was established for the duration of the operation of the powers under the Coronavirus (Scotland) Act, the Coronavirus Act and any other legislation in relation to the response to COVID-19.

The Session 5 Committee was designated as the lead committee in relation to the [Coronavirus \(Scotland\) \(No. 2\) Bill](#) (introduced on 11 May 2020) under Standing Orders Rules 9.6.1 and 9.7.1(a). It did not report on the Bill at Stage 1, but it did consider amendments at Stage 2.

The Commission may find it helpful to review the Session 5 Committee’s legacy report. This includes an overview of the scrutiny arrangements (referred to as a ‘protocol’) that were agreed between the Scottish Parliament and Scottish Government in relation to the emergency secondary legislation related to COVID-19—

¹¹ COVID-19 Recovery Committee. Available at: <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-covid19-recovery-committee>.

¹² [S6M-00397](#) George Adam: Coronavirus (Extension and Expiry) (Scotland) Bill: Timetable and Procedures for Consideration.

¹³ [S5M-21506](#) Graeme Dey: Establishment of Committee.

- [Legacy Report](#)¹⁴

Committees of the whole parliament (Session 5)

In Session 5, the Scottish Parliament agreed to treat the following as emergency bills under Standing Orders Rule 9.21.1—

- [Coronavirus \(Scotland\) Bill](#) (introduced on 31 March 2020)

The Coronavirus (Scotland) Bill was considered by a committee of the whole parliament at Stages 1 and 2.

Other bills

The Commission may also find it helpful to review the following bills that related to the pandemic, but not the public health protection measures directly. For this reason, neither the Committee nor the Session 5 Committee were designated as the lead committees for the scrutiny of these bills—

- [Scottish General Election \(Coronavirus\) Bill](#) (Session 5)
- [Non-Domestic Rates \(Coronavirus\) \(Scotland\) Bill](#) (Session 6)

Neither of these bills were designated as emergency bills, but the Scottish Parliament agreed to suspend Standing Orders to amend the minimum scrutiny timetable for the Scottish General Election (Coronavirus) Bill.¹⁵

Scottish Parliament Information Centre ('SPICe') resources

The Commission may also find it helpful to review the resources provided by SPICe to support the Scottish Parliament's scrutiny of the emergency legislation. In particular, the Committee would draw the Commission's attention to the following blog that was produced to support the Committee's work—

- [COVID-19 legislation – where has it come from and how was it scrutinised?](#) (22 June 2021)

Further relevant SPICe materials can be found at the following links—

- [SPICe Spotlight Hub: Coronavirus \(COVID-19\)](#)
- [SPICe Research Briefings](#)

Other committee contributions

The Committee works closely with the Delegated Powers and Law Reform ('DPLR') Committee on legislative scrutiny. I understand that the DPLR Committee and the Education, Children and Young People Committee will be providing separate

¹⁴ COVID-19 Committee. 8th Report, 2021 (Session 5). *Legacy Report* (SP Paper 1010).

¹⁵ [S5M-23471](#) Graeme Dey: Scottish General Election (Coronavirus) Bill: Timetable and Procedures for Consideration

responses to the call for views and the Commission may find it helpful to read these responses in conjunction.

Should the Commission have any queries regarding this response, please do not hesitate to contact the Committee using the contact details provided above.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Siobhian Brown', with a long horizontal flourish extending to the right.

Siobhian Brown MSP
Convener
COVID-19 Recovery Committee