

Coronavirus (Extension and Expiry) (Scotland) Bill

[AS INTRODUCED]

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Schedule—Transitional and saving provisions

**THE FOLLOWING ACCOMPANYING DOCUMENTS ARE ALSO PUBLISHED:
Explanatory Notes (SP Bill 1-EN), a Financial Memorandum (SP Bill 1-FM), a Policy
Memorandum (SP Bill 1-PM), a Delegated Powers Memorandum (SP Bill 1-DPM) and
statements on legislative competence (SP Bill 1-LC).**

Coronavirus (Extension and Expiry) (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to extend the period for which Part 1 of the Coronavirus (Scotland) Act 2020 and Part 1 of the Coronavirus (Scotland) (No.2) Act 2020 are in force; to provide for the expiry of certain provisions of those Parts; and for connected purposes.

1 Extension of provisions

- 5 (1) Section 12 of the Coronavirus (Scotland) Act 2020 is amended in accordance with subsections (2) and (3).
- (2) In subsection (1), for “on 30 September 2021” substitute “at the end of 31 March 2022”.
- (3) For subsections (3) and (4), substitute—
- 10 “(3) The Scottish Ministers may by regulations amend subsection (1) so as to replace “31 March 2022” with “30 September 2022”.”.
- (4) Section 9 of the Coronavirus (Scotland) (No.2) Act 2020 is amended in accordance with subsections (5) and (6).
- (5) In subsection (1), for “on 30 September 2021” substitute “at the end of 31 March 2022”.
- (6) For subsections (3) and (4) substitute—
- 15 “(3) The Scottish Ministers may by regulations amend subsection (1) so as to replace “31 March 2022” with “30 September 2022”.”.

2 Expiry of provisions

- (1) The provisions of the Coronavirus (Scotland) Act 2020 referred to in subsections (2) to (6) expire at the end of 30 September 2021.
- 20 (2) In schedule 2, paragraphs 2 and 3 (moratorium on diligence: multiple applications).
- (3) Schedule 3 (children and vulnerable adults).
- (4) In schedule 4—
- (a) paragraph 12 (community payback orders: extension of unpaid work or other activity requirements),
- 25 (b) paragraph 14 (community orders: postponement),

- (c) in paragraph 15 (community orders: variation)—
 - (i) in sub-paragraph (1), the words “and drug treatment and testing orders”,
 - (ii) in sub-paragraph (6), the words “or drug treatment and testing order”.

(5) In schedule 6—

- (a) paragraph 6 (freedom of information: Commissioner's ability to take account of impact of coronavirus),
- (b) paragraph 15 (duties under the Public Finance and Accountability (Scotland) Act 2000).

(6) In schedule 7—

- (a) paragraphs 1 and 5 (social security: period for re-determination of entitlement),
- (b) paragraphs 6 and 7 (irritancy clauses in commercial leases: non-payment of rent or other sums due).

(7) The following provisions of schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 expire at the end of 30 September 2021—

- (a) in paragraph 3 (termination of student residential tenancy by tenant: requirements for notice)—
 - (i) sub-paragraph (2)(b)(i),
 - (ii) in sub-paragraph (2)(b)(ii), the words “in any other case,”,
 - (iii) sub-paragraphs (3) and (4),
- (b) paragraph 6 (carer’s allowance supplement),
- (c) paragraphs 22 and 23 (care homes: inspections and reporting on coronavirus deaths),
- (d) paragraph 24 (marriages and civil partnerships during emergency period).

(8) For the purpose of section 13(1) of the Coronavirus (Scotland) Act 2020, the expiry of a provision of that Act by virtue of this section is to be treated as if it were by virtue of previous regulations under section 13(1) of that Act.

(9) For the purpose of section 10(1) of the Coronavirus (Scotland) (No.2) Act 2020, the expiry of a provision of that Act by virtue of this section is to be treated as if it were by virtue of previous regulations under section 10(1) of that Act.

3 Minor and consequential provisions

(1) Section 4 (children and vulnerable adults) of the Coronavirus (Scotland) Act 2020 is repealed, together with the italic heading immediately preceding it.

(2) In section 12(6) of the Coronavirus (Scotland) Act 2020, for “Before” substitute “At the same time as”.

(3) In schedule 4 of the Coronavirus (Scotland) Act 2020, paragraph 16 (community orders: interpretation) is amended as follows—

- (a) in the opening words, for the words “paragraphs 12, 14 and” substitute “paragraph”,
- (b) the definition of “drug treatment and testing order” is repealed,
- (c) in the definition of “relevant local authority”, paragraph (b) is repealed,
- (d) the definition of “specified period” is repealed.

- (4) In section 9(6) of the Coronavirus (Scotland) (No.2) Act 2020, for “Before” substitute “At the same time as”.
- (5) In schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020, in paragraph 1(3) (termination of student residential tenancy by tenant: interpretation), the words “(except in paragraph 3(3))” are repealed.
- (6) In schedule 4 of the Coronavirus (Scotland) (No.2) Act 2020, paragraphs 10 and 11 (freedom of information: modification of Coronavirus (Scotland) Act 2020) are repealed.
- (7) The following instruments are revoked—
- (a) the Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2020 (S.S.I. 2020/299), and
 - (b) the Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2021 (S.S.I. 2021/152).
- (8) The Coronavirus (Scotland) Act 2020 (Suspension: Adults with Incapacity) Regulations 2020 (S.S.I. 2020/267) are revoked.
- (9) Regulation 4 of the Coronavirus (Scotland) Acts (Early Expiry and Suspension of Provisions) Regulations 2021 (S.S.I. 2021/93) is revoked.

4 Transitional and saving provisions

The schedule contains transitional and saving provisions.

5 Power to make provision in connection with expiry

- (1) The Scottish Ministers may by regulations make consequential, transitional, transitory or saving provision in connection with the expiry under section 2 of any provision of—
- (a) the Coronavirus (Scotland) Act 2020, or
 - (b) the Coronavirus (Scotland) (No.2) Act 2020.
- (2) Regulations under subsection (1) may—
- (a) make different provision for different purposes or areas,
 - (b) modify any enactment (including this Act).
- (3) Regulations under subsection (1)—
- (a) which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure,
 - (b) otherwise, are subject to the negative procedure.

6 Commencement

- (1) Subsections (1), (3), (5), (8) and (9) of section 3 come into force at the end of 30 September 2021.
- (2) The other provisions of this Act come into force on the day after Royal Assent.

7 Short title

The short title of this Act is the Coronavirus (Extension and Expiry) (Scotland) Act 2021.

SCHEDULE
(introduced by section 4)

TRANSITIONAL AND SAVING PROVISIONS

Children

- 5 1 (1) Despite sections 2(3) and 3(1), section 4 of the Coronavirus (Scotland) Act 2020 and the provisions of that Act referred to in sub-paragraphs (2) to (6) continue in effect as described in those sub-paragraphs.
- (2) In paragraph 2 of schedule 3, sub-paragraphs (1) to (6) continue in effect in relation to a child protection order made before the end of 30 September 2021.
- 10 (3) Paragraph 3 of schedule 3 continues in effect in relation to a compulsory supervision order if, at the end of 30 September 2021, the order has effect by virtue of section 83(7A) of the Children’s Hearings (Scotland) Act 2011.
- (4) Paragraph 4 of schedule 3 continues in effect in relation to—
- 15 (a) an interim compulsory supervision order made before the end of 30 September 2021 (but not in relation to the extension, or extension and variation, of such an order where the extension, or extension and variation, is made after 30 September 2021), and
- (b) an interim variation of compulsory supervision order made before the end of 30 September 2021, but
- 20 where a sheriff specifies a period of days in accordance with section 86(3)(d)(ii), 86(3)(e)(ii) or 140(4)(d)(ii) of the Children’s Hearings (Scotland) Act 2011 and that period expires after 12 November 2021, the period is to be treated as expiring at the end of 12 November 2021.
- (5) In paragraph 7 of schedule 3, sub-paragraphs (1) to (8) and (11) to (14) continue in effect in relation to the appeal of a decision or determination where the decision or determination in question is made before the end of 30 September 2021.
- 25 (6) In paragraph 10 of schedule 3, sub-paragraphs (1) to (5) continue in effect in relation to a child where, at the end of 30 September 2021—
- (a) the child is in a placement with a foster carer where the placement of the child by the local authority has resulted in more than three children (who are not all siblings of each other) being placed with that foster carer at any one time, and
- 30 (b) the child is not the subject of an emergency or short-term placement with a foster carer as mentioned in regulation 27A(2)(b) of the Looked After Children (Scotland) Regulations 2009 (S.S.I. 2009/210).
- (7) Where by virtue of sub-paragraph (6), sub-paragraphs (1) to (5) of paragraph 10 of schedule 3 continue in effect in relation to a child, regulation 27B(2) to (7) of the Looked After Children (Scotland) Regulations 2009 is to be treated as applying in relation to the child.
- 35 (8) In that application—
- 40 (a) the reference in regulation 27B(2) to the date on which A is placed with the foster carer is to be read as a reference to 30 September 2021, and
- (b) the references in regulation 27B(4) and (5) to A are to be read as references to the child.

Freedom of information: Commissioner's ability to take account of impact of coronavirus

- 2 Despite section 2(5)(a), paragraph 6 of schedule 6 of the Coronavirus (Scotland) Act 2020 continues in effect in relation to a request made under section 1(1) of the Freedom of Information (Scotland) Act 2002 before the end of 30 September 2021.

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Introduced by: John Swinney
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