

# COVID-19 Recovery Committee

## 4<sup>th</sup> Meeting, 2022 (Session 6), Thursday 3 February 2022

### Ministerial statement on COVID-19 and Subordinate legislation

#### Introduction

1. At this meeting, the Deputy First Minister and Cabinet Secretary for COVID Recovery (“the Cabinet Secretary”), will give evidence under agenda item 1.
2. The Committee will take evidence under this agenda item on the policy announcements arising from the latest Ministerial statement on COVID-19 on 1 February 2022. The Committee will also take evidence on the following subordinate legislation under agenda item 1, before it considers motions corresponding to the last three instruments, under agenda item 2—
  - The Coronavirus (Scotland) Act 2020 (Early Expiry of Provisions) Regulations 2022 (SSI 2022/11)
  - The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 2) Regulations (2022 SSI 2022/13)
  - The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 2) Regulations 2022 (SSI 2022/25)
  - The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 3) Regulations 2022 (SSI 2022/29)

#### Background

3. SPICe has produced a [blog](#) with background information on the statutory powers that underpin the Scottish Government’s strategy for responding to COVID-19.

# Agenda item 1: Ministerial statement on COVID-19 and Subordinate legislation

## Ministerial statement on COVID-19: Tuesday 1 February 2022

4. The Scottish Government delivers a weekly statement to parliament setting out its latest actions for responding to COVID-19 on Tuesday afternoons. The main public health measures being used to respond to COVID-19 are contained within the [principal health protection regulations](#). The Committee takes evidence from Scottish Ministers on any policy announcements arising from the statement and any changes to the regulations every fortnight.

5. The next statement will take place on 1 February 2022. Members will take evidence on any policy announcements arising from this statement under agenda item 1.

## SPICe COVID-19 Update

6. SPICe produces a briefing entitled 'SPICe COVID-19 Update' (see **Paper 4** – to follow as a late paper on Wednesday). This provides Members with links to the latest guidance and supporting information published by the Scottish Government, in addition to a selection of websites with information on wider health and social and economic indicators in Scotland.

7. This paper will be published as a late paper to allow the latest data from Public Health Scotland to be incorporated.

## Subordinate legislation

### *Overview*

8. The first item of subordinate legislation listed on the agenda is subject to the “negative” procedure. This allows 40 days for the Parliament to consider a motion to annul an instrument. The days are calculated from the date on which an instrument is laid. A motion to annul has not been laid in respect of the negative instrument listed on the agenda for this meeting. As such, the purpose of agenda item 3 is to allow the Committee to ask the Deputy First Minister any questions about the government’s policy intent and to agree that the Committee has no recommendations to make on the instrument.

9. The next three items of subordinate legislation listed on the agenda are subject to the ‘made affirmative’ procedure. This means that the regulations can come into force immediately and without any parliamentary scrutiny. The regulations can only remain in force for 28 days from the date they were made into law. To continue in force for longer than 28 days, parliamentary approval is required and must be

granted within the first 28 days of the instruments being made. The DPLR Committee and COVID-19 Recovery Committee will report on the instruments, before the whole Parliament considers the motions to approve them.

### *Policy Background: (SSI 2022/11)*

10. On 20 January 2022, the Scottish Government laid [SSI 2022/11](#) and the regulations will come into force on 10 March 2022. As the regulations are subject to the negative procedure, they will come into force unless a motion to annul is lodged and agreed by Parliament by 9 March 2022. No motion to annul has been laid in relation to these regulations.

11. According to the [policy note](#), the purpose of the instrument is as follows—

“These SSIs amends the Parole Board (Scotland) Rules 2001 to allow the Parole Board for Scotland to conduct the entirety (or any part) of a parole hearing by live link and to expire early provisions in the Coronavirus (Scotland) Act 2020 which made temporary provision for use of a live link in this way.”

12. The DPLR Committee will consider 2022/11 at its meeting on 1 February 2022 and will publish its report shortly after that meeting. A copy of the DPLR Committee’s report will be provided to Members when it becomes available.

### *Policy Background: (SSI 2022/13)*

13. On 20 January 2022, the Scottish Government laid [SSI 2022/13](#) and the regulations came into force on 24 January 2022. As the regulations are subject to the made affirmative procedure, they must receive parliamentary approval by 25 February 2022 to remain in force beyond this date.

14. According to the [policy note](#), the purpose of the instrument is as follows—

**“Capacity limits for indoor events, physical distancing, table service and the closure of nightclubs.** In response to the emergence of the Omicron variant of the SARS-CoV-2 virus and its transmission in Scotland in late 2021, the Scottish Government put in place protective measures to reduce the rates of transmission. These included the introduction of capacity limits for indoor live events; a requirement to take measures to ensure, so far as reasonably practicable, that a distance of 1 metre is maintained between people on or waiting to enter hospitality and leisure premises and that only enough people are admitted to the premises to allow the 1 metre distance to be maintained; a requirement for table service in premises where alcohol is sold consumed on the premises, and that the customer must remain seated whilst consuming food and drink on the premises; and a requirement for nightclubs to close to members of the public.

The Scottish Government now considers that the protective measures introduced in December can be lifted in a phased way. The second phase, as

set out in this instrument, is the removal of capacity limits on live events indoors as well as removal of the physical distancing requirements, table service requirements and requirements that nightclubs are closed. The first stage of lifting measures came into effect on 17 January 2022 by virtue of The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment Regulations 2022.

**Definitions for Certification requirements.** These regulations also amend paragraph (b) of the definition of ‘late night premises’ in regulation 7E (1) of the principal Regulations. This ensures that certification is required where “there is a dancefloor or space where dancing by customers takes place” (and the other requirements of that definition are met).

15. The Scottish Government published an [Equality Impact Assessment](#), [Children’s Rights and Wellbeing Impact assessment](#) and [Business and Regulatory Impact Assessment](#) to accompany these regulations.

16. The DPLR Committee considered 2022/13 at its meeting on 25 January 2022 and it had [no points to raise](#).

### *Policy Background: (SSI 2022/25)*

17. On 26 January 2022, the Scottish Government laid [SSI 2022/25](#) and the regulations came into force on 29 January 2022. As the regulations are subject to the made affirmative procedure, they must receive parliamentary approval by 3 March 2022 to remain in force beyond this date.

18. According to the [policy note](#), the purpose of the instrument is as follows—

“This instrument adds the DNA (Dynamic New Athletics) event which is an indoor athletics event due to take place on 5 February 2022 at Emirates Arena, Glasgow to the list of specified competitions in Part 1 of Schedule 6. The policy objective is to allow international sportspeople and ancillary staff coming to Scotland to compete in this event to be eligible for the elite sportsperson exemption.”

19. The policy note to SSI 2022/25 states that “no impact assessment has been produced for this instrument.”

20. The Delegated Powers and Law Reform (DPLR) Committee will consider SSI 2022/25 at its meeting on 1 February 2022 and will publish its report shortly after that meeting. A copy of the DPLR Committee’s report will be provided to Members when it becomes available.

### *Policy Background: (SSI 2022/29)*

21. On 27 January 2022, the Scottish Government laid [SSI 2022/29](#) and the regulations came into force on 28 January 2022. As the regulations are subject to

the made affirmative procedure, they must receive parliamentary approval by 4 March 2022 to remain in force beyond this date.

22. According to the [policy note](#), the purpose of the instrument is as follows—

“In response to the emergence of the Omicron variant of the SARS-CoV-2 virus and its transmission in Scotland in late 2021, the Scottish Government put in place protective measures to reduce the rates of transmission. These included amendments made in the Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 5) Regulations 2021 which amended certain specific exemptions in the Principal Regulations for persons to wear a face covering unless they are separated either by a partition or by a specified distance. The specified distance for these exemptions was increased from at least one metre to at least two metres.

The relevant exemptions relate to employees and volunteers in certain places, a person leading an act of worship in a place of worship, a person leading a funeral, marriage ceremony or civil partnership registration, parties to be married or entering into a civil partnership, a person performing, presenting, addressing a public gathering, making a speech or acting as a panel member and a person performing or rehearsing for a performance where certain circumstances apply; also in any indoor communal area in a workplace. Where a person -who is not in an area which is wholly outdoors- is travelling on a ferry the exemption from wearing a face covering where a distance of at least one metre is maintained from other persons, was also increased to at least two metres.

The Scottish Government now considers that the protective measures introduced in December can be lifted in a phased way. The third phase, as set out in this instrument, is the reduction of the distance for the purpose of these exemptions to at least a one metre distance from at least two metres enabling a person who is either separated by a partition or the shorter distance of at least one metre to remove their face covering in specific circumstances as listed in paragraph 2.

The first two stages of lifting measures came into effect on 17 January and 24 January 2022 by virtue of The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment Regulations 2022 and the Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No.2) Regulations 2022.”

23. The policy note to SSI 2022/29 states that “An Equality Impact Assessment, Children’s Rights and Wellbeing Impact Assessment and Business and Regulatory Impact Assessment have been prepared for publication for these Regulations”. These impact assessments had not been published at the time of writing.

24. The Delegated Powers and Law Reform (DPLR) Committee will consider SSI 2022/29 at its meeting on 1 February 2022 and will publish its report shortly after that meeting. A copy of the DPLR Committee’s report will be provided to Members when it becomes available.

## Agenda item 2: Subordinate legislation

25. Under agenda item 2, the Cabinet Secretary will be invited to move motions—
- [S6M-02894](#)—That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 2) Regulations 2022 (SSI 2022/13) be approved.
  - [S6M-02966](#)— That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 2) Regulations 2022 (SSI 2022/25) be approved.
  - [S6M-02987](#)— That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 3) Regulations 2022 (SSI 2022/29) be approved.

## Agenda item 3: Subordinate legislation

26. A motion to annul has not been laid in respect of the negative instrument listed on the agenda for this meeting. As such, the purpose of agenda items 1 and 3 is to allow the Committee to ask the Deputy First Minister any questions about the government's policy intent and to agree that the Committee has no recommendations to make on the instrument.

## Next steps

27. The Committee will publish a report setting out its consideration of the motions under agenda item 2 in due course.

**Committee Clerks**  
**January 2022**