



# Coronavirus (Scotland) (No.2) Act 2020

## 2020 asp 10

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 20th May 2020 and received Royal Assent on 26th May 2020**

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

### **PART 1**

#### MAIN PROVISIONS

##### *Key expression*

#### **1 Meaning of “coronavirus”**

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

##### *Protection of the individual*

#### **2 Protection of the individual**

Schedule 1 contains modifications to the law in response to coronavirus in relation to various matters concerning the protection of the individual.

##### *Justice*

#### **3 Operation of the justice system**

Schedule 2 contains modifications to the law in response to coronavirus in relation to the operation of the justice system.

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*Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) (No.2) Act 2020. (See end of Document for details)*

*Reports, accounts and other documents*

**4 Reports, accounts and other documents**

Schedule 3 contains modifications to the law in response to coronavirus in relation to various matters concerning the preparation of reports, accounts and other documents.

*Other measures in response to coronavirus*

**5 Other measures in response to coronavirus**

Schedule 4 contains other measures in response to coronavirus.

**PART 2**

SUPPORTING AND FINAL PROVISIONS

*Supporting provisions*

**6 Advancement of equality and non-discrimination**

- (1) In exercising a function conferred by virtue of Part 1 (including a function of making subordinate legislation), the Scottish Ministers must have regard—
  - (a) to the importance of communicating in an inclusive way,
  - (b) to opportunities to advance equality and non-discrimination.
- (2) In subsection (1)(a), “communicating in an inclusive way” means communicating in a way that ensures that individuals who have difficulty communicating (in relation to speech, language or otherwise) can receive information and express themselves in ways that best meet each individual's needs.
- (3) Section 9 (advancement of equality and non-discrimination) of the Coronavirus (Scotland) Act 2020 is amended by subsections (4) to (6).
- (4) The existing text becomes subsection (1).
- (5) In that subsection, for “regard” substitute “regard—
  - (a) to the importance of communicating in an inclusive way,
  - (b)”.
- (6) After that subsection insert—
  - “(2) In subsection (1)(a), “communicating in an inclusive way” means communicating in a way that ensures that individuals who have difficulty communicating (in relation to speech, language or otherwise) can receive information and express themselves in ways that best meet each individual's needs.”.

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## **7 Subordinate legislation making powers**

A 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.

## **8 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 (effect of repeals) 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 may make—
  - (a) different provision for different purposes or areas,
  - (b) consequential provision,
  - (c) transitional, transitory or saving provision.
- (5) The power under subsection (4)(b) and (c) includes power to modify any enactment (including this Act).
- (6) Regulations under this section—
  - (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.

## **9 Expiry**

- (1) Part 1 expires on [F131 March 2021].
- (2) Subsection (1) is subject to section 10 (power to bring forward expiry).
- (3) The Scottish Ministers may by regulations—
  - (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.
- (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 (instruments subject

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to affirmative procedure), the Scottish Ministers must lay before the Parliament a statement of their reasons why the regulations should be made.

- (7) Subsection (8) applies if regulations under subsection (3) are made in accordance with paragraph 23 of schedule 7 of the Coronavirus (Scotland) Act 2020.
- (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.
- (9) The Scottish Ministers may by regulations make—
- (a) consequential provision,
  - (b) transitional, transitory or saving provision,
- in connection with the expiry under subsection (1) of any provision of this Act.
- (10) Regulations under subsection (9) may—
- (a) make different provision for different purposes or areas,
  - (b) modify any enactment (including this Act).
- (11) Regulations under subsection (9)—
- (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.

#### Textual Amendments

- F1** Words in s. 9(1) substituted (29.9.2020) by [The Coronavirus \(Scotland\) Acts \(Amendment of Expiry Dates\) Regulations 2020 \(S.S.I. 2020/299\)](#), regs. 1, **3(2)**

## 10 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 9 or previous regulations under this section), and
  - (b) expires instead at such earlier time as is specified in the regulations.
- (2) Regulations under this section may make—
- (a) different provision for different purposes or areas,
  - (b) consequential provision,
  - (c) transitional, transitory or saving provision.
- (3) The power under subsection (2)(b) and (c) includes power to modify any enactment (including this Act).
- (4) Regulations under this section—
- (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.

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## **11 Power to amend Act in consequence of amendments to subordinate legislation**

- (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.
- (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.
- (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.
- (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.

### *Reporting requirements*

## **12 Reports by the Scottish Ministers on the status of provisions**

- (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
  - (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.
- (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, how)—
    - (i) section 8 (power to suspend and revive provisions),
    - (ii) section 10 (power to bring forward expiry).

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- (4) Each of the following is a “reporting period”—
- (a) the period beginning with the day after Royal Assent and ending on 31 July 2020,
  - (b) each successive period of 2 months that ends during the period before Part 1 expires by virtue of section 9(1).
- (5) The Scottish Ministers must lay each report under subsection (1) before the Scottish Parliament no later than 14 days after the expiry of a reporting period.

### **13      Reviews: information about domestic abuse**

- (1) The Scottish Ministers must—
- (a) in undertaking a review under section 12(1)(a), take account of any information about the nature and number of incidents of domestic abuse occurring during the reporting period to which the review relates given to them, or published, by—
    - (i) the Scottish Police Authority, or
    - (ii) the chief constable of the Police Service of Scotland, and
  - (b) explain in the report on that review prepared under section 12(1)(b) how the information was taken account of.
- (2) The Coronavirus (Scotland) Act 2020 is amended by subsection (3).
- (3) After section 15 (reports by the Scottish Ministers on status of provisions), insert—

#### **“15A Reviews: information about domestic abuse**

- (1) The Scottish Ministers must—
- (a) in undertaking a review under section 15(1)(a), take account of any information about the nature and number of incidents of domestic abuse occurring during the reporting period to which the review relates given to them, or published, by—
    - (i) the Scottish Police Authority, or
    - (ii) the chief constable of the Police Service of Scotland, and
  - (b) explain in the report on that review prepared under section 15(1)(b) how the information was taken account of.
- (2) In subsection (1)(a), “reporting period” means a period mentioned in section 15(4)(b).”.

### **14      Reports by the Scottish Ministers on coronavirus-related instruments**

- (1) The Scottish Ministers must, in respect of each reporting period—
- (a) undertake a review of all Scottish statutory instruments (other than excepted instruments)—
    - (i) made by them, and
    - (ii) the main purpose of which is to make provision for a reason relating to coronavirus, and
  - (b) prepare a report on that review.
- (2) A report prepared under subsection (1) must, in relation to each instrument—

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- (a) set out—
    - (i) its title,
    - (ii) the powers under which it was made,
    - (iii) the parliamentary procedure to which it was subject, and
    - (iv) the period for which it has effect,
  - (b) include—
    - (i) its status, and
    - (ii) a statement that the Scottish Ministers are satisfied that its status is appropriate.
- (3) The references in subsection (2)(b) to the “status” of an instrument are to whether the provision made by the instrument is in force at the end of the reporting period.
- (4) Each of the following is a “reporting period”—
- (a) the period beginning with the day after Royal Assent and ending on 31 July 2020,
  - (b) each successive period of 2 months that ends during the period before Part 1 expires by virtue of section 9(1).
- (5) The Scottish Ministers must lay each report under subsection (1) before the Scottish Parliament no later than 14 days after the expiry of a reporting period.
- (6) In subsection (1)(a), “excepted instruments” means Scottish statutory instruments containing provision made under a power conferred by virtue of—
- (a) this Act,
  - (b) the Coronavirus (Scotland) Act 2020, or
  - (c) the Coronavirus Act 2020.

### *General*

## **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) Regulations under subsection (1) may modify any enactment (including this Act).
- (3) Without prejudice to section 6 of the Interpretation and Legislative Reform (Scotland) Act 2010 (power to revoke, amend and re-enact), the Scottish Ministers may by regulations modify any regulations made under subsection (1) in consequence of—
  - (a) the exercise of a power under section 8 (power to suspend and revive provisions),
  - (b) the expiry of a provision of this Act under section 9 (expiry),
  - (c) the exercise of a power under section 10 (power to bring forward expiry).
- (4) Regulations under subsection (3) may make transitional, transitory or saving provision.
- (5) Regulations under this section—

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- (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.

## **16 Commencement**

- (1) This Act comes into force on the day after Royal Assent.
- (2) 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) (No.2) Act 2020.



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## SCHEDULE 1

*(introduced by section 2)*

### PROTECTION OF THE INDIVIDUAL

#### PART 1

##### STUDENT RESIDENTIAL TENANCY: TERMINATION BY TENANT

###### *Interpretation of this Part*

- 1 (1) In this Part—
- “the 2016 Act” means the Private Housing (Tenancies) (Scotland) Act 2016,
  - “student” has the same meaning as in paragraph 5 of schedule 1 of the 2016 Act,
  - “student residential tenancy” means a tenancy—
    - (a) the purpose of which is to confer on the tenant the right to occupy the let property while the tenant is a student, and
    - (b) to which sub-paragraph (2) or (3) of paragraph 5 of schedule 1 (tenancies which cannot be private residential tenancies) of the 2016 Act applies,
  - “tenancy” includes sub-tenancy,
  - “tenant” includes sub-tenant.
- (2) In a case where two or more persons jointly are the landlord under a tenancy, references in this Part to the landlord are to any of those persons.
- (3) In a case where two or more persons jointly are the tenant under a tenancy, references in this Part to the tenant are to all of those persons (except in paragraph 3(3)).

###### *Tenant's ability to bring tenancy to an end*

- 2 (1) A tenant may, for a reason relating to coronavirus, bring to an end a student residential tenancy by giving to the landlord a notice which fulfils the requirements described in paragraph 3.
- (2) A tenancy comes to an end in accordance with sub-paragraph (1) on the day on which the notice states (in whatever terms) that it is to come to an end.

###### *Requirements for notice to be given by tenant*

- 3 (1) A notice fulfils the requirements referred to in paragraph 2(1) if—
  - (a) it is in writing, and
  - (b) it states, as the day on which the tenancy is to end, a day that is after the last day of the minimum notice period.
- (2) In sub-paragraph (1)(b), “the minimum notice period” means a period which—
  - (a) begins on the day the notice is received by the landlord, and
  - (b) ends on the day falling—
    - (i) in a case where sub-paragraph (3) applies, 7 days after the period begins, or
    - (ii) in any other case, 28 days after the period begins.

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- (3) This sub-paragraph applies where—
- (a) the tenancy was entered into before the coming into force of this paragraph, and
  - (b) the let property was occupied by the tenant under the tenancy at any time before the coming into force of this paragraph.
- (4) In a case where two or more persons jointly are the tenant under the tenancy, the reference in sub-paragraph (3) to the tenant is to any of those persons.

## PART 2

### TENANCIES: PRE-ACTION REQUIREMENTS FOR ORDER FOR POSSESSION OR EVICTION ORDER ON GROUND OF RENT ARREARS

#### *Assured and short assured tenancy*

- 4 (1) The Housing (Scotland) Act 1988 applies in accordance with the modifications in this paragraph.
- (2) Section 18 (orders for possession) has effect as if—
- (a) after subsection (3A) there were inserted—
    - “(3B) Subsection (3C) applies where the First-tier Tribunal is satisfied—
      - (a) that Ground 8 in schedule 5 is established, and
      - (b) that all or part of the rent in respect of which the tenant is in arrears as mentioned in that Ground relates to the period during which paragraph 4 of schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 is in force.
  - (3C) Where this subsection applies, in considering for the purposes of subsection (4) (as applied in accordance with the modification made by paragraph 3(2)(b) of schedule 1 of the Coronavirus (Scotland) Act 2020) whether it is reasonable to make an order for possession against the tenant, the First-tier Tribunal is to consider the extent to which the landlord has complied with pre-action requirements before raising the proceedings for possession.”,
  - (b) after subsection (8) there were inserted—
    - “(9) In subsection (3C), “pre-action requirements” means such requirements as the Scottish Ministers may specify in regulations.
  - (10) Regulations under subsection (9) may in particular make provision about—
    - (a) information to be provided by a landlord to a tenant including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy,
    - (b) steps to be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,

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(c) such other matters as the Scottish Ministers consider appropriate.

(11) Regulations under subsection (9) are subject to the affirmative procedure.”.

(3) Section 53(2) (orders and regulations) has effect as if after “above” there were inserted “ or regulations under section 18(9) ”.

*Private residential tenancy*

5 (1) The Private Housing (Tenancies) (Scotland) Act 2016 applies in accordance with the modifications in this paragraph.

(2) Paragraph 12 of schedule 3 (rent arrears) has effect as if—

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

“(3A) Sub-paragraph (3B) applies where the First-tier Tribunal is satisfied—

(a) that the eviction ground named by sub-paragraph (1) applies, and

(b) that all or part of the rent in respect of which the tenant is in arrears as mentioned in that eviction ground relates to the period during which paragraph 5 of schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 is in force.

(3B) Where this sub-paragraph applies, in considering for the purposes of sub-paragraph (3)(b) whether it is reasonable to issue an eviction order against the tenant, the First-tier Tribunal is to consider the extent to which the landlord has complied with pre-action requirements before applying for the eviction order.”.

(b) after sub-paragraph (5) there were inserted—

“(6) In sub-paragraph (3B), “pre-action requirements” means such requirements as the Scottish Ministers may specify in regulations.

(7) Regulations under sub-paragraph (6) may in particular make provision about—

(a) information to be provided by a landlord to a tenant including information about the terms of the tenancy, rent arrears and any other outstanding financial obligation under the tenancy,

(b) steps to be taken by a landlord with a view to seeking to agree arrangements with a tenant for payment of future rent, rent arrears and any other outstanding financial obligation under the tenancy,

(c) such other matters as the Scottish Ministers consider appropriate.”.

(3) Section 77(3) (regulation-making powers) has effect as if after “41” there were inserted “ and paragraph 12(6) of schedule 3 ”.

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### PART 3

#### CARER'S ALLOWANCE SUPPLEMENT

- 6 (1) The Social Security (Scotland) Act 2018 applies in accordance with the modifications in this paragraph.
- (2) Section 81 (carer's allowance supplement) has effect as if—
- (a) in subsection (4), after “formula” there were inserted “ (but see also subsection (4A)) ”,
  - (b) after subsection (4) there were inserted—
 

“(4A) The amount of a carer's allowance supplement in respect of the period of 1 April 2020 to 30 September 2020 is £230.10 greater than that calculated according to the formula in subsection (4).”.

### PART 4

#### SOCIAL CARE STAFF SUPPORT FUND

- 7 (1) The Scottish Ministers must, as soon as practicable after Royal Assent, establish and maintain a fund to be known as the “social care staff support fund”.
- (2) The Scottish Ministers must use the fund to provide financial assistance to workers in the social care sector—
- (a) whose ability to undertake contracted health and care work is, or has been, restricted, for a reason relating to coronavirus (such as, but not limited to, inability to work in multiple or linked workplaces), and
  - (b) as a result of that restriction, whose income is reduced and consequently would experience, or are experiencing, financial hardship during the period when Part 1 is in force.
- (3) The Scottish Ministers must by regulations make further provision about the establishment, maintenance and administration of the fund.
- (4) Regulations under sub-paragraph (3)—
- (a) must be laid before the Scottish Parliament as soon as practicable after they are made,
  - (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.
- (5) In calculating the period of 28 days in sub-paragraph (4)(b), 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.
- (6) If regulations cease to have effect as a result of sub-paragraph (4)(b), that does not—
- (a) affect anything previously done under the regulations,
  - (b) prevent the making of new regulations.
- (7) In sub-paragraph (2), the “social care sector” includes any care service within the meaning given in section 47 of the Public Services Reform (Scotland) Act 2010.

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## PART 5

### BANKRUPTCY

#### *Electronic service of documents*

- 8 (1) The Interpretation and Legislative Reform (Scotland) Act 2010, in so far as it applies where the service of a document is authorised or required by or under the Bankruptcy (Scotland) Act 2016, applies in accordance with the modifications in this paragraph.
- (2) Section 26 (service of documents) has effect as if—
- (a) in subsection (2), for paragraph (c) there were substituted—  
“(c) by being transmitted to the person electronically.”,
  - (b) subsection (3) were repealed,
  - (c) for subsection (6) there were substituted—  
“(6) For the purposes of subsection (2)(c)—
    - (a) electronic transmission of a document 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—
      - (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),
      - (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.”.

#### *Financial criteria for minimal asset process*

F29 .....

#### **Textual Amendments**

- F2** Sch. 1 para. 9 expires (29.3.2021) by virtue of [The Bankruptcy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/148\)](#), regs. 1, **3(a)**

#### *Meaning of “qualified creditor”*

- 10 (1) The Bankruptcy (Scotland) Act 2016 applies in accordance with the modifications in this paragraph.
- (2) Section 7(1) (qualified creditor and qualified creditors) has effect as if—

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- (a) in the definition of “qualified creditor”, for “£3,000” there were substituted “£10,000”;
- (b) in the definition of “qualified creditors”, for “£3,000” there were substituted “£10,000”.

*Deadline for sending proposals for debtor's contribution*

F3 11

**Textual Amendments**

**F3** Sch. 1 para. 11 expires (29.3.2021) by virtue of [The Bankruptcy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/148\)](#), regs. 1, **3(b)**

*Virtual meetings of creditors*

- 12 (1) The Bankruptcy (Scotland) Act 2016 applies in accordance with the modifications in this paragraph.
- (2) Part 2 (meetings of creditors) of schedule 6 has effect as if—
- (a) for paragraph 13 there were substituted—
    - “13 Every meeting must be held either—
      - (a) in such place (whether or not in the sheriffdom) as is, in the opinion of the person calling the meeting, the most convenient for the majority of the creditors, or
      - (b) by such electronic means as would, in the opinion of the person calling the meeting, be most convenient to allow the majority of the creditors to participate in the meeting without being together in the same place.
    - 13A Where a meeting is to be held in pursuance of paragraph 13(b), the references in paragraphs 4 and 6 to the place fixed for the holding of the meeting are to be read as references to the electronic means by which attendees are to be able to attend the meeting without being together in the same place.”
  - (b) in paragraph 24—
    - (i) for “and place” there were substituted “, and at the same place or by the same electronic means,”;
    - (ii) for the words from “in” to “specified” there were substituted “ the resolution otherwise specifies ”.

*Electronic signature of forms*

F4 13

**Textual Amendments**

**F4** Sch. 1 para. 13 expires (29.3.2021) by virtue of [The Bankruptcy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/148\)](#), regs. 1, **3(c)**

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### *Fees for debtor applications*

F5 14 .....

#### **Textual Amendments**

- F5** Sch. 1 para. 14 expires (29.3.2021) by virtue of [The Bankruptcy \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/148\)](#), regs. 1, **3(d)**

## **PART 6**

### MENTAL HEALTH: NAMED PERSON NOMINATION

- 15 (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 applies in accordance with the modification in this paragraph.
- (2) Section 250 (nomination of named person) has effect as if in subsection (2A)(c), at the beginning, there were inserted “in the case of a docket signed by the nominated person before paragraph 15 of schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 comes into force,”.

## **PART 7**

### CARE HOMES

#### *Emergency directions*

- 16 (1) The Public Services Reform (Scotland) Act 2010 applies in accordance with the modification in this paragraph.
- (2) The Act has effect as if after section 63 (special provision for certain care services provided by local authorities) there were inserted—

*“Care homes: emergency directions*

#### **63A Emergency power to direct care home service during coronavirus pandemic**

- (1) A Health Board may, if the condition in subsection (2) is met, direct a person who provides a care home service registered under this Chapter at specified accommodation in the Board's area to take such steps as may be specified within such period as may be specified.
- (2) The condition is that the Health Board considers that, for a reason relating to coronavirus, there is a material risk to the health of persons at the specified accommodation.
- (3) The specified steps must relate directly to reducing the risk to the health of persons at the specified accommodation (for example, by requiring specified cleaning to take place).

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- (4) A Health Board must have regard to any guidance issued by the Scottish Ministers in relation to the exercise of its functions under this section.
- (5) The Scottish Ministers must publish any guidance that they issue under this section in such manner as they consider appropriate.
- (6) The power under subsection (1) to give a direction includes the power to vary or revoke an earlier direction under that subsection.
- (7) A direction given under this section must be in writing.
- (8) For the purposes of this section and section 63B—
  - “coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020,
  - “Health Board” means a Health Board constituted under section 2(1) (a) of the National Health Service (Scotland) Act 1978, and “area” in relation to a Health Board, means the area for which the Board is constituted,
  - “specified” means specified in a direction given under subsection (1).

#### **63B Power to act where section 63A direction not complied with**

- (1) This section applies where a Health Board that gave a direction under section 63A is not satisfied that the person to whom the direction was given has complied with the direction.
- (2) The Health Board may—
  - (a) take the specified steps (or such of those steps as have not been taken),
  - (b) take entry to the specified accommodation (if necessary to take the steps), and
  - (c) recover from the provider of the care home service the costs incurred by the authority in relation to taking the specified steps.
- (3) A sheriff may grant a warrant under this section to authorise the Health Board—
  - (a) to enter the premises, and
  - (b) to take the specified steps.
- (4) A sheriff may grant a warrant under this section only if satisfied that—
  - (a) there are reasonable grounds for entering the specified accommodation, and
  - (b) entry to the specified accommodation has been refused.
- (5) A warrant expires—
  - (a) 28 days after the day on which it was granted, or
  - (b) if earlier, when the specified steps have been taken.
- (6) For the purposes of section 64 (cancellation of registration), failure to comply with a warrant granted under this section is a relevant offence.”.



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*Status: Point in time view as at 29/03/2021.*

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### *Emergency intervention orders*

- 17 (1) The Public Services Reform (Scotland) Act 2010 applies in accordance with the modification in this paragraph.
- (2) The Act has effect as if after section 65 there were inserted—

#### **“65A Care homes: emergency intervention orders**

- (1) The Scottish Ministers may apply to the court for an emergency intervention order in respect of a care home service provided at accommodation specified in the application.
- (2) An emergency intervention order is an order which—
- (a) authorises the Scottish Ministers to nominate a person to act as a nominated officer,
  - (b) authorises the nominated officer to—
    - (i) enter and occupy the accommodation specified in the order (“the accommodation”),
    - (ii) direct and control the provision of the care home service at the accommodation, and
    - (iii) do anything that the officer considers necessary to ensure that the care home service is provided to an appropriate standard, and
  - (c) requires the person who is (or, immediately prior to the granting of an order under section 65, was) registered under this Chapter as the provider of a care home service at the accommodation (“the affected provider”) to comply with any direction given by the officer in relation to the provision of care home services at the accommodation,
- for such period of up to 12 months as may be specified in the order.
- (3) On an application under subsection (1), the court may make such interim order as it thinks fit.
- (4) An order under this section has no effect on the rights or obligations of persons receiving care home services at the accommodation.
- (5) The Scottish Ministers may, where satisfied that it is essential do so for a reason relating to coronavirus, to prevent an imminent and serious risk to the life or health of persons at the accommodation, exercise the powers that would be available under an emergency intervention order prior to making an application to the court.
- (6) But, where the Scottish Ministers exercise powers under subsection (5), they must make an application under subsection (1) within 24 hours of their exercise of the powers (and may exercise the powers until the application is considered by the court).
- (7) The court must make an emergency intervention order if it appears to the court that, unless the order is made, for a reason relating to coronavirus there will be a serious risk to the life, health or wellbeing of persons at the accommodation.

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*Status: Point in time view as at 29/03/2021.*

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- (8) The court may include such incidental provision in an order under this section as the court thinks fit (for example, prohibiting the sale of the accommodation or the disposal of any assets used in the provision of care services at the accommodation).
- (9) As soon as practicable after the Scottish Ministers have made an application under subsection (1), they must notify the appropriate authorities.
- (10) Where the court makes an order under this section, the Scottish Ministers must as soon as reasonably practicable give a copy of it to—
  - (a) the affected provider, and
  - (b) the appropriate authorities.
- (11) The court may grant an order under this section in the absence of the affected provider.
- (12) An order under this section has effect from—
  - (a) the time at which it is made, or
  - (b) such other time as the court considers appropriate.
- (13) The court may, on the application of the Scottish Ministers or the affected provider—
  - (a) vary an emergency intervention order,
  - (b) extend its duration for a further period of up to 6 months,
  - (c) revoke it (either immediately or on such date as the court may specify).
- (14) The court may, on the application of the Scottish Ministers or the affected provider, vary or recall an interim order granted under subsection (3).
- (15) An order made under this section has effect notwithstanding the making of an appeal in relation to the order.
- (16) For the purpose of this section—
  - (a) the appropriate authorities are—
    - (i) SCSWIS,
    - (ii) the local authority and the health board within whose area the care home service is provided,
    - (iii) Healthcare Improvement Scotland,
  - (b) “coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020,
  - (c) “court” means the Court of Session or the sheriff,
  - (d) “Health Board” means a Health Board constituted under section 2(1) (a) of the National Health Service (Scotland) Act 1978,
  - (e) “nominated officer” means a person appointed by the Scottish Ministers whom they consider suitable to perform the functions conferred under an emergency intervention order.

#### **65B Further provision in relation to emergency intervention orders**

- (1) The Scottish Ministers may by regulations make further provision in connection with emergency intervention orders under section 65A.

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- (2) Regulations under this section—
  - (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.
- (3) In calculating the period of 28 days, no account is to be taken of any time during which the Scottish Parliament is dissolved or in recess for more than 4 days.
- (4) If regulations cease to have effect as a result of subsection (2)(b), that does not—
  - (a) affect anything previously done under the regulations,
  - (b) prevent the making of new regulations.”.

## PART 8

### POWERS TO PURCHASE CARE HOME SERVICES AND CARE AT HOME PROVIDERS

#### *Power of local authority to purchase distressed care home or care at home service provider*

- 18 (1) A local authority may acquire (by agreement)—
  - (a) a relevant provider of care home services,
  - (b) a relevant provider of care at home services, or
  - (c) any asset or liability of a provider mentioned in paragraph (a) or (b),in the circumstances described in paragraph 20.
- (2) This paragraph is without prejudice to sections 69 and 70 of the Local Government (Scotland) Act 1973 (subsidiary powers and acquisition of land by agreement).

#### *Power of health body to purchase distressed care home service provider*

- 19 (1) A health body may, on behalf of the Scottish Ministers, acquire (by agreement)—
  - (a) a relevant provider of care home services, or
  - (b) any asset or liability of such a provider,in the circumstances described in paragraph 20.
- (2) A health body must comply with a direction given by the Scottish Ministers in relation to the functions conferred on it under this paragraph.
- (3) The power under sub-paragraph (2) to give a direction includes the power to vary or revoke an earlier direction under that sub-paragraph.
- (4) A direction given under this paragraph must—
  - (a) be in writing, and
  - (b) be published in such manner as the Scottish Ministers consider appropriate.
- (5) This paragraph is without prejudice to section 79 of the National Health Service (Scotland) Act 1978 (purchase of land and moveable property).

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*Status: Point in time view as at 29/03/2021.*

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*Circumstances in which powers under this Part may be exercised*

- 20 (1) This paragraph describes the circumstances in which the powers conferred by paragraph 18 or 19 may be exercised in relation to a relevant provider of care home services or care at home services (“the provider”).
- (2) The circumstances are that, for a reason relating to coronavirus—
- (a) the provider is in serious financial difficulty,
  - (b) the local authority or, as the case may be, the health body is satisfied that there is a threat to the life, health or wellbeing of the persons receiving the services, or
  - (c) the provider has recently ceased to provide the services.
- (3) For the purposes of sub-paragraph (2)(a), a provider is to be regarded as being in serious financial difficulty if it notifies SCSWIS of an insolvency event under regulation 6A, 6B or 6C of the Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011 (S.S.I. 2011/210).
- (4) As soon as practicable after receiving notification of such an insolvency event, SCSWIS is to inform—
- (a) any local authority and Health Board in whose areas the services are being provided,
  - (b) the Common Services Agency, and
  - (c) Healthcare Improvement Scotland,
- that such notification has been received.
- (5) For the purposes of being satisfied as to the threat described in sub-paragraph (2) (b)—
- (a) in a case where the proposed acquisition is by a local authority, it must consult—
    - (i) SCSWIS,
    - (ii) any other local authority in whose area the services are being provided,
    - (iii) any Health Board in whose area the services are being provided,
    - (iv) the Common Services Agency,
    - (v) Healthcare Improvement Scotland,
    - (vi) such other persons or bodies as it considers appropriate (if any),
  - (b) in a case where the proposed acquisition is by a health body, it must consult—
    - (i) SCSWIS,
    - (ii) any local authority in whose area the services are being provided,
    - (iii) any Health Board in whose area the services are being provided,
    - (iv) the Common Services Agency,
    - (v) Healthcare Improvement Scotland,
    - (vi) such other persons or bodies as it considers appropriate (if any).

*Interpretation*

- 21 In this Part—
- “asset” includes any right or interest in land or moveable property,
- “care home service” has the meaning given by paragraph 2 of schedule 12 of the Public Services Reform (Scotland) Act 2010,

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“care at home service” means the provision of—

- (a) domiciliary services (within the meaning of section 94 of the Social Work (Scotland) Act 1968), or
- (b) a support service consisting wholly or mainly of providing personal care in the home of the person receiving the care,

“Health Board” means a Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978, and “area”, in relation to a Health Board, means the area for which the Board is constituted,

“health body” means a Health Board, the Common Services Agency or Healthcare Improvement Scotland,

“personal care” has the meaning given by paragraph 20 of schedule 12 of the Public Services Reform (Scotland) Act 2010,

“relevant provider of care home services” means a person or body providing care home services other than a local authority or a health body,

“relevant provider of care at home services” means a person or body providing care at home services other than a local authority or a health body,

“SCSWIS” means Social Care and Social Work Improvement Scotland,

“support service” has the meaning given by paragraph 1 of schedule 12 of the Public Services Reform (Scotland) Act 2010.

## PART 9

### CARE HOMES: FURTHER PROVISION

#### *Inspections*

- 22 (1) The Public Services Reform (Scotland) Act 2010 applies in accordance with the modification in this paragraph.
- (2) The Act has effect as if after section 53 there were inserted—

#### **“53A Inspections of care homes**

- (1) SCSWIS must lay a report before the Parliament every two weeks setting out—
  - (a) which care home services it inspected during those two weeks, and
  - (b) the findings of those inspections.
- (2) The first report is to be laid before the Parliament two weeks after paragraph 22 of schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 comes into force.”.

#### *Reporting on coronavirus deaths*

- 23 (1) The Public Services Reform (Scotland) Act 2010 applies in accordance with the modification in this paragraph.
- (2) The Act has effect as if after section 79 there were inserted—

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### **“79A Reporting on coronavirus deaths in care homes**

- (1) Any person who provides a care home service must make a report to SCSWIS every day on—
  - (a) the number of deaths of residents in the care home from coronavirus since the relevant date,
  - (b) the number of deaths of residents in the care home, since the relevant date, that are suspected to be attributable to coronavirus,
  - (c) the total number of deaths in the care home, since the relevant date, irrespective of whether or not they are attributable to coronavirus.
- (2) As soon as practicable after the end of each 7 day period during which SCSWIS has been receiving reports under subsection (1), using the information in those reports, SCSWIS must make a report to the Scottish Ministers on—
  - (a) the total number of deaths in care homes in Scotland from coronavirus since the relevant date,
  - (b) the total number of deaths of residents in care homes in Scotland, since the relevant date, that are suspected to be attributable to coronavirus,
  - (c) the total number of deaths in care homes in Scotland, since the relevant date, irrespective of whether or not they are attributable to coronavirus.
- (3) The Scottish Ministers must lay each report from SCSWIS under subsection (2) before the Parliament as soon as practicable and in any event no later than 7 days after they have received it.
- (4) In this section—
 

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

“relevant date” means the day before the date on which paragraph 23 of schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 comes into force.”.

## **PART 10**

### **MARRIAGE AND CIVIL PARTNERSHIP**

- [<sup>F6</sup>24 (1) The Scottish Ministers must, in conjunction with the Registrar General of Births, Deaths and Marriages for Scotland, take such steps as they consider to be necessary to ensure that the solemnisation of marriages and registration of civil partnerships continue to be available in Scotland during the emergency period.
- (2) Steps taken under sub-paragraph (1) must ensure that the ability of persons to exercise rights under Article 12 (right to marry) of the European Convention on Human Rights is not disproportionately interfered with for reasons relating to coronavirus.
  - (3) The Scottish Ministers must, in respect of each reporting period, prepare a report on—

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- (a) the steps taken under sub-paragraph (1), and
  - (b) the number of marriages solemnised and civil partnerships registered in Scotland during the reporting period.
- (4) The Scottish Ministers must lay each report under sub-paragraph (3) before the Scottish Parliament no later than 14 days after the expiry of a reporting period.
- (5) In this paragraph—  
“emergency period” means the period for which this paragraph is in force,  
“reporting period” has the meaning given by section 12(4).]

#### Textual Amendments

- F6** Sch. 1 para. 24 suspended (29.3.2021) by [The Coronavirus \(Scotland\) Acts \(Early Expiry and Suspension of Provisions\) Regulations 2021 \(S.S.I. 2021/93\)](#), regs. 1, 4

## SCHEDULE 2

*(introduced by section 3)*

### OPERATION OF THE JUSTICE SYSTEM

#### PART 1

##### CRIMINAL JUSTICE

###### *Criminal proceedings: extension of time limits*

- 1 (1) The Criminal Procedure (Scotland) Act 1995 applies in accordance with the modifications in this paragraph.
- (2) Section 145 (adjournment for inquiry at first calling) has effect as if—  
(a) in subsection (1), for “subsections (2) and (3)” there were substituted “subsection (2)”,  
(b) subsection (3) were repealed.
- (3) Section 145A (adjournment at first calling to allow accused to appear etc.) has effect as if—  
(a) in subsection (1), for “subsections (2) and (3)” there were substituted “subsection (2)”,  
(b) subsection (3) were repealed.
- (4) Section 200 (remand for inquiry into physical or mental condition) has effect as if—  
(a) in subsection (2), in the closing text, the words “, no single period exceeding three weeks,” were repealed,  
(b) in subsection (3)(a), the words “not exceeding three weeks” were repealed.
- (5) Section 245J (breach of certain orders: adjourning hearing and remanding in custody etc.) has effect as if for subsection (3) there were substituted—

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“(3) The court may adjourn a hearing under subsection (1) for such period as it considers appropriate.”.

*Arrangements for the custody of persons detained at police stations*

- 2 (1) The Scottish Ministers may make arrangements for functions within sub-paragraph (2) to be performed in such cases as may be determined by or under the arrangements by prisoner custody officers with escort functions.
- (2) Those functions are—
- (a) functions of the transfer or custody of prisoners in police stations which are in connection with appearances by those prisoners before courts by electronic means,
  - (b) functions of an administrative character in connection with the appearance of prisoners in police stations before courts by electronic means.
- (3) Arrangements made by the Scottish Ministers under this paragraph may include entering into contracts with other persons for the provision by them of prisoner custody officers.
- (4) For the purposes of this paragraph—
- (a) a prisoner custody officer with escort functions is a person in respect of whom a certificate under section 114 of the 1994 Act (prisoner custody officers: general functions) is for the time being in force which certifies that the person has been approved by the Scottish Ministers for the purpose of performing—
    - (i) escort functions, or
    - (ii) both escort functions and custodial duties,
  - (b) a reference to appearing before a court by electronic means is a reference to appearing before a court by electronic means by virtue of—
    - (i) Part 1 of schedule 4 of the Coronavirus (Scotland) Act 2020, or
    - (ii) any other enactment allowing or requiring appearances before a court to be made by electronic means.
- 3 (1) The provisions of the 1994 Act specified in sub-paragraph (2) apply in relation to arrangements made under paragraph 2 as they apply in relation to prisoner escort arrangements and, accordingly, references in those provisions to prisoner escort arrangements are to be read as including references to arrangements made under that paragraph.
- (2) Those provisions are—
- (a) section 103 (monitoring of prisoner escort arrangements),
  - (b) section 104 (powers and duties of prisoner custody officers performing escort functions),
  - (c) section 105 (breaches of discipline by prisoners under escort),
  - (d) paragraph 3 of schedule 6 (suspension of certificates), and
  - (e) section 115 (wrongful disclosure of information).
- (3) The references in paragraphs 3 and 4 of schedule 6 of the 1994 Act to escort functions are to be read as including functions within paragraph 2(2).



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- (4) The reference in paragraph (a)(i) of rule 5 (suspension of a certificate of a prisoner custody officer) of the Prison Rules to prisoner escort arrangements is to be read as including arrangements made under paragraph 2.
- (5) The reference in paragraph (b) of rule 5 of the Prison Rules to the functions set out in section 102(2) of the 1994 Act is to be read as including functions within paragraph 2(2).
- 4       Where functions are performed by a prisoner custody officer by virtue of paragraph 2 prior to the prisoner being brought before the court, the prisoner is not to be regarded as having been transferred out of police custody for the purposes of section 64(2)(cb) of the Criminal Justice (Scotland) Act 2016.
- 5       In paragraphs 2 to 4—  
      “the 1994 Act” means the Criminal Justice and Public Order Act 1994,  
      “the Prison Rules” means the Prisons and Young Offenders Institutions (Scotland) Rules 2011 (S.S.I. 2011/331),  
      “prisoner” means any person who is in legal custody or is deemed to be in legal custody under section 295 of the Criminal Procedure (Scotland) Act 1995.

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

- 6       (1) The Criminal Justice (Scotland) Act 2016 applies in accordance with the modifications in this paragraph.
- (2) Section 29 (expiry of undertaking) has effect as if in subsection (1)(a), after “court” there were inserted “ (but see section 29A) ”.
- (3) The Act has effect as if after section 29 there were inserted—

**“29A Expiry of undertaking: coronavirus-related reason for non-appearance**

- (1) A court may modify the terms of an undertaking given under section 25(2) (a) by changing the time at which the person who gave it is to appear at the court if—
- (a) the person has failed to appear at court as required by the terms of the undertaking,
  - (b) the court considers that the failure to appear is attributable to a reason relating to coronavirus, and
  - (c) the court does not consider it appropriate to grant a warrant for the person's arrest on account of the failure to appear.
- (2) Where a court modifies the terms of an undertaking under subsection (1), the procurator fiscal must give notice of the modification to the person who gave the undertaking as soon as reasonably practicable.
- (3) Notice under subsection (2) must be effected in a manner by which citation may be effected under section 141 of the 1995 Act.
- (4) The reference in subsection (1) to the terms of an undertaking are to the terms of the undertaking subject to any modification by notice under section 27(1).

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*Status: Point in time view as at 29/03/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) (No.2) Act 2020. (See end of Document for details)*

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(5) A reference in any enactment to the modification of the terms of an undertaking under section 27(1) is to be treated as including modification under subsection (1).

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

*Fixed penalty notices under the Health Protection  
(Coronavirus) (Restrictions) (Scotland) Regulations 2020*

7 (1) The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (S.S.I. 2020/103) are amended by this paragraph.

(2) In regulation 9(1)(b), for “16” substitute “ 18 ”.

## PART 2

### PROCEEDS OF CRIME

*Extension of permitted period for purpose of confiscation order*

8 (1) The Proceeds of Crime Act 2002 applies in accordance with the modifications in this paragraph.

(2) Section 99 (postponement) has effect as if—

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

“(4A) For the purposes of subsection (4), “exceptional circumstances”, in relation to proceedings, includes the effect (whether direct or indirect) of coronavirus on the proceedings.”,

(b) after subsection (11) there were inserted—

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

*Time limits for payment of confiscation orders*

9 (1) The Proceeds of Crime Act 2002 applies in accordance with the modifications in this paragraph.

(2) Section 116 (time for payment) has effect as if—

(a) in subsection (1)—

(i) the existing words “the following provisions of this section” were paragraph (a),

(ii) after that paragraph there were inserted “, and

(b) section 116A.”,

(b) in subsection (5)(b), after “12 months” there were inserted “ unless subsection (5A) applies ”,

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

“(5A) This subsection applies if the court making the order under subsection (4) is satisfied that the accused is, for a reason relating to

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coronavirus, unable to pay the amount ordered to be paid under the confiscation order within the period of 12 months beginning with the day on which the confiscation order is made.

(5B) Where subsection (5A) applies, the extended period may continue until such day as the court considers appropriate in the circumstances.”,

(d) in subsection (6)(b) after “made”, in the second place where it occurs, there were inserted “ unless subsection (5A) applies (see subsection (6A)) ”,

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

“(6A) Where subsection (5A) applies, subsection (6) applies as if the words from “but” to the end of the subsection were omitted.”,

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

“(8) In this section and sections 116A and 117, “coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020.”.

(3) The Act has effect as if after section 116 there were inserted—

#### **“116A Further time for payment due to coronavirus**

(1) Where a court has made an order under section 116(4) extending the specified period relating to a confiscation order (“the extended period”), the accused may apply to the sheriff court for an order further extending the specified period.

(2) The accused may make an application under subsection (1)—

(a) before the expiry of the extended period, or

(b) after the expiry of the extended period if—

(i) the extended period expired during the period beginning with 1 March 2020 and ending on the day before the commencement day, or

(ii) the extended period expired on or after the commencement day and the accused was unable to make an application under subsection (1) before the expiry of the extended period for a reason relating to coronavirus.

(3) Where an application is made under subsection (1) after the expiry of the extended period, the application must be made—

(a) where the condition set out in subsection (2)(b)(i) is met, as soon as is reasonably practicable after the commencement day,

(b) where the conditions set out in subsection (2)(b)(ii) are met, as soon as is reasonably practicable after the expiry of the extended period.

(4) If, following receipt of an application under subsection (1), the court is satisfied that the accused is or (as the case may be) was unable to pay the amount ordered to be paid under the confiscation order before the expiry of the extended period for a reason relating to coronavirus, the court may make an order further extending the specified period relating to the confiscation order (“the further extended period”).

(5) The further extended period—

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- (a) must start with the day on which the confiscation order is made, and
  - (b) may continue until such day as the court considers appropriate in the circumstances.
- (6) The court must not make an order under subsection (4) unless it gives the prosecutor an opportunity to make representations.
- (7) Subsection (8) applies where an application is made under subsection (1) after the expiry of the extended period and the court makes an order under subsection (4) following receipt of the application.
- (8) The order under subsection (4) is to be treated for the purposes of sections 116 and 117 as if it were made by the court immediately before the expiry of the extended period.
- (9) In this section—
- “commencement day” means the day on which paragraph 9 of schedule 2 of the Coronavirus (Scotland) (No.2) Act 2020 comes into force,
  - “specified period”, in relation to a confiscation order, means the period specified under section 116(2) within which the amount ordered to be paid under the confiscation order must be paid.”.
- (4) Section 117 (interest on unpaid sums) has effect as if—
- (a) in subsection (1), after “section 116” there were inserted “ (or within such a period as extended under section 116A) ”,
  - (b) in subsection (3)(c), after “ended” there were inserted “ (but see subsection (3A)) ”,
  - (c) after subsection (3) there were inserted—
- “(3A) Subsection (3)(c) does not apply to an application made under subsection (4) of section 116 where the accused invites the court to make a finding as mentioned in subsection (5A) of that section in the context of making an order under subsection (4) of that section.
  - (3B) For the purposes of this section, no amount is required to be paid under a confiscation order if—
- (a) an application has been made under section 116A(1) in relation to the confiscation order before the expiry of the period specified under section 116(4) in respect of the order, and
  - (b) the application has not been determined by the court.”.

### PART 3

#### INTIMATION, ETC. OF DOCUMENTS

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

- 10 (1) The Coronavirus (Scotland) Act 2020 is amended by this paragraph.
- (2) In schedule 4 (justice)—
- (a) after paragraph 1 insert—

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*Status: Point in time view as at 29/03/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) (No.2) Act 2020. (See end of Document for details)*

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### **Intimation, etc. on Scottish Courts and Tribunals Service website**

- “1A (1) Any requirement (however expressed) that a document—
- (a) be put on the walls, doors or any other part of a court building (whether internal or external), or
  - (b) be made publicly available in any other way within a court building,
- is to be fulfilled instead by the document's being made publicly available through the Scottish Courts and Tribunals Service website.
- (2) But sub-paragraph (1) does not apply to a document if it is of a type that—
- (a) the Lord President of the Court of Session, or
  - (b) the Lord Justice General,
- has directed that sub-paragraph (1) does not apply to.
- (3) Where a document is to be made publicly available through the Scottish Courts and Tribunals Service website by virtue of this paragraph, it is to so be made available in accordance with—
- (a) any direction issued by—
    - (i) the Lord President of the Court of Session, or
    - (ii) the Lord Justice General, and
  - (b) (subject to any necessary modifications) any enactment about—
    - (i) how a step mentioned in paragraph (a) or (b) of sub-paragraph (1) is to be taken in relation to the document, or
    - (ii) the length of time for which the document is to be made publicly available in a way described by those paragraphs.
- (4) A direction under sub-paragraph (3)(a) may, in particular, provide that a document is to be made available only in a redacted form.
- (5) If an enactment provides for an alternative to taking a step mentioned in paragraph (a) or (b) of sub-paragraph (1) as a means of achieving an outcome (for example, advertising an application in a newspaper as a means of intimating it), nothing in this paragraph precludes the taking of that alternative step to achieve the outcome.
- (6) In this paragraph, “the Scottish Courts and Tribunals Service website” means the website maintained by, or on behalf of, the Service with the internet domain name *scotcourts.gov.uk*.”
- (b) in paragraph 5, after paragraph (a) insert—
- “(aa) a direction under paragraph 1A(2) or (3)(a),”.

*Status: Point in time view as at 29/03/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) (No.2) Act 2020. (See end of Document for details)*

## SCHEDULE 3

*(introduced by section 4)*

### REPORTS, ACCOUNTS AND OTHER DOCUMENTS

#### PART 1

##### REPORTS, ETC. UNDER THE CLIMATE CHANGE (SCOTLAND) ACT 2009

F7<sub>1</sub> .....

#### Textual Amendments

- F7** Sch. 3 para. 1 expires (29.9.2020) by virtue of [The Coronavirus \(Scotland\) Acts \(Early Expiry of Provisions\) Regulations 2020 \(S.S.I. 2020/249\)](#), regs. 1, **3(a)(i)**

#### PART 2

##### ACCOUNTS OF REGISTERED SOCIAL LANDLORDS

##### *Extension of deadline for accounts*

F8<sub>2</sub> .....

#### Textual Amendments

- F8** Sch. 3 para. 2 expires (29.9.2020) by virtue of [The Coronavirus \(Scotland\) Acts \(Early Expiry of Provisions\) Regulations 2020 \(S.S.I. 2020/249\)](#), regs. 1, **3(a)(ii)**

#### PART 3

##### ACCOUNTS UNDER THE PUBLIC FINANCE AND ACCOUNTABILITY (SCOTLAND) ACT 2000

F9<sub>3</sub> .....

#### Textual Amendments

- F9** Sch. 3 para. 3 expires (29.9.2020) by virtue of [The Coronavirus \(Scotland\) Acts \(Early Expiry of Provisions\) Regulations 2020 \(S.S.I. 2020/249\)](#), regs. 1, **3(a)(iii)**

*Status: Point in time view as at 29/03/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) (No.2) Act 2020. (See end of Document for details)*

## PART 4

### HOUSING (SCOTLAND) ACT 1987: STATEMENT UNDER SECTION 33B

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

F10<sub>4</sub> .....

#### Textual Amendments

**F10** Sch. 3 para. 4 expires (29.9.2020) by virtue of [The Coronavirus \(Scotland\) Acts \(Early Expiry of Provisions\) Regulations 2020 \(S.S.I. 2020/249\)](#), regs. 1, **3(a)(iv)**

## SCHEDULE 4

*(introduced by section 5)*

### OTHER MEASURES IN RESPONSE TO CORONAVIRUS

## PART 1

### UEFA EUROPEAN CHAMPIONSHIP

F11<sub>1</sub> .....

#### Textual Amendments

**F11** Sch. 4 para. 1 expires (29.9.2020) by virtue of [The Coronavirus \(Scotland\) Acts \(Early Expiry of Provisions\) Regulations 2020 \(S.S.I. 2020/249\)](#), regs. 1, **3(b)(i)**

## PART 2

### LISTED BUILDINGS AND CONSERVATION AREAS: CONSENTS

*Extension of period of consent*

- 2 (1) The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997—
- (a) is amended by sub-paragraph (2), and
  - (b) applies in accordance with the modification in sub-paragraph (3).
- (2) In section 16 (limit of duration of listed building consent), after subsection (4) insert—
- “(5) During the emergency period, a listed building consent that would lapse under subsection (1)(a) or (b) lapses instead at the end of the extended period, unless the works permitted by the consent are begun before the end of that period.

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*Status: Point in time view as at 29/03/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) (No.2) Act 2020. (See end of Document for details)*

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(6) In subsection (5)—

“emergency period” means the period beginning with the date on which paragraph 2(2) of schedule 4 of the Coronavirus (Scotland) (No.2) Act 2020 came into force and ending on 6 October 2020,

“extended period” means the period beginning with the date on which paragraph 2(2) of schedule 4 of the Coronavirus (Scotland) (No.2) Act 2020 came into force and ending on 6 April 2021.”.

(3) Section 16 has effect as if after subsection (6) (as inserted by this paragraph) there were inserted—

“(7) The Scottish Ministers may by regulations amend the definition of “emergency period” or “extended period” in subsection (6).”.

### PART 3

#### REGISTERS KEPT BY THE KEEPER OF THE REGISTERS OF SCOTLAND

##### *Register of Inhibitions*

- 3 (1) This paragraph applies in relation to a document which is required or permitted to be registered or recorded in the Register of Inhibitions (“the register”), other than a document of a type mentioned in paragraph 1(4) of schedule 4 of the Coronavirus (Scotland) Act 2020.
- (2) An electronic signature fulfils any requirement (however expressed) that the document be signed in order to be registered or recorded in the register.
- (3) Any requirement (however expressed) that the document be given to the Keeper in order to be registered or recorded in the register may be fulfilled by transmitting it to the Keeper electronically.
- (4) For the purposes of sub-paragraph (3), the document must be transmitted by a means (and in a form) which is specified on the Keeper's website as being acceptable for those purposes.
- (5) In this paragraph—
- “document” includes a copy of a document,
- “electronic signature” is to be construed in accordance with section 7(2) of the Electronic Communications Act 2000 (electronic signatures and related certificates), but includes a version of an electronic signature which is reproduced on a paper document,
- “the Keeper” means the Keeper of the Registers of Scotland,
- “the Keeper's website” means the website maintained by, or on behalf of, the Keeper of the Registers of Scotland with the domain name ros.gov.uk.

##### *Register of judgments*

- 4 (1) The Act of Sederunt (Rules of the Court of Session 1994) 1994 (S.I. 1994/1443) applies in accordance with the modification in this paragraph.



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*Status: Point in time view as at 29/03/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) (No.2) Act 2020. (See end of Document for details)*

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- (2) Chapter 62 of schedule 2 (recognition, registration and enforcement of foreign judgments, etc.) has effect as if after rule 62.101 there were inserted—

## “PART XV

### ELECTRONIC SIGNING AND TRANSMISSION OF CERTAIN DOCUMENTS

#### *Electronic signing and transmission of certain documents*

62.102 This rule applies in relation to a document which is to be given to, or issued by, the Keeper of the Registers under this Chapter, other than a document of a type mentioned in paragraph 1(4) of schedule 4 of the Coronavirus (Scotland) Act 2020.

- (2) An electronic signature fulfils any requirement (however expressed) that the document be signed.
- (3) The document may be—
- (a) given to the Keeper by transmitting it to the Keeper electronically,
  - (b) issued to a person by the Keeper by—
    - (i) transmitting it to the person electronically, or
    - (ii) transmitting it (electronically or otherwise) to a solicitor engaged to act on the person's behalf in relation to the document.
- (4) For the purposes of paragraph (3)(a), the document may be transmitted by a means (and in a form) which is specified on the Keeper's website as being acceptable for those purposes.
- (5) For the purposes of paragraph (3)(b)—
- (a) electronic transmission of a document by the Keeper to another person (“the recipient”) must be effected in a way that the recipient has indicated to the Keeper 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—
    - (i) specific to the document in question or generally applicable to documents of that kind,
    - (ii) expressed specifically to the Keeper or generally (for example on a website),
    - (iii) inferred from the recipient having previously been willing to receive documents from the Keeper in that way and not having indicated unwillingness to do so again,
  - (c) the Keeper'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 Keeper to the recipient.
- (6) In this rule—
- “document” includes a copy of a document,

*Status: Point in time view as at 29/03/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) (No.2) Act 2020. (See end of Document for details)*

“electronic signature” is to be construed in accordance with section 7(2) of the Electronic Communications Act 2000 (electronic signatures and related certificates), but includes a version of an electronic signature which is reproduced on a paper document,  
 “the Keeper's website” means the website maintained by, or on behalf of, the Keeper of the Registers of Scotland with the domain name ros.gov.uk.”.

## PART 4

### CARE SERVICES: GIVING OF NOTICES BY THE CARE INSPECTORATE

- 5 (1) The Public Services Reform (Scotland) Act 2010 applies in accordance with the modification in this paragraph.
- (2) The Act has effect as if for section 101 (giving of notice) there were substituted—

#### “101 Giving of notice

- (1) In Chapters 3 and 4, any reference to a notice being given to a person providing, or seeking to provide, a care service is to be construed as a reference to its being—
- (a) delivered, where the person is—
    - (i) an individual, to that individual,
    - (ii) a body corporate, to a director, secretary or other similar officer of that body or to a manager (or other similar officer) of the care service provided by that body, or
    - (iii) a firm, to a partner of that firm,
  - (b) sent by post, properly addressed to the person, in a registered letter or by the recorded delivery service, or
  - (c) transmitted to the person electronically.
- (2) In subsection (1)(a)(ii), “manager”, in relation to a care service provided by a body corporate, means the manager whose name is entered in the register maintained under regulation 5 of the Social Care and Social Work Improvement Scotland (Registration) Regulations 2011 (S.S.I. 2011/28) in relation to the care service.
- (3) For the purpose of subsection (1)(b)—
- (a) a letter is properly addressed to—
    - (i) a body corporate, if addressed to the body at its registered or principal office,
    - (ii) a firm, if addressed to the firm at its principal office,
    - (iii) any other person, if addressed to the person at the address last known,
  - (b) a notice sent by post is to be taken to have been received on the third day after the day of posting unless the contrary is shown.
- (4) For the purpose of subsection (1)(c)—

*Status: Point in time view as at 29/03/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) (No.2) Act 2020. (See end of Document for details)*

- (a) electronic transmission of a notice must be effected in a way that the person has indicated to SCSWIS that the person is willing to receive the notice,
- (b) the person's willingness to receive a notice in a particular way may be—
  - (i) specific to the notice in question or generally applicable to notices or other documents of that kind,
  - (ii) expressed specifically to SCSWIS or generally (for example on a website),
  - (iii) inferred from the person having previously been willing to receive notices or other documents from SCSWIS in that way and not having indicated an unwillingness to do so again,
- (c) SCSWIS' uploading of a notice to an electronic storage system from which the person is able to download the notice may constitute electronic transmission of the notice from SCSWIS to the person,
- (d) a notice transmitted electronically is to be taken to have been received on the day of transmission unless the contrary is shown.”.

## PART 5

### LAND AND BUILDINGS TRANSACTION TAX: ADDITIONAL AMOUNT

F12<sup>6</sup> .....

#### Textual Amendments

**F12** Sch. 4 para. 6 expires (29.9.2020) by virtue of [The Coronavirus \(Scotland\) Acts \(Early Expiry of Provisions\) Regulations 2020 \(S.S.I. 2020/249\)](#), regs. 1, **3(b)(ii)**

## PART 6

### NON-DOMESTIC RATES RELIEF

#### *Special power in respect of financial year 2020-21*

F13<sup>7</sup> .....

#### Textual Amendments

**F13** Sch. 4 para. 7 expires (29.9.2020) by virtue of [The Coronavirus \(Scotland\) Acts \(Early Expiry of Provisions\) Regulations 2020 \(S.S.I. 2020/249\)](#), regs. 1, **3(b)(iii)**

#### *Relief to be provided to the newspaper publishing industry*

F14<sup>8</sup> .....

*Status: Point in time view as at 29/03/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) (No.2) Act 2020. (See end of Document for details)*

### Textual Amendments

**F14** Sch. 4 para. 8 expires (29.9.2020) by virtue of [The Coronavirus \(Scotland\) Acts \(Early Expiry of Provisions\) Regulations 2020 \(S.S.I. 2020/249\)](#), regs. 1, **3(b)(iv)**

## PART 7

### EXECUTION OF DOCUMENTS, ETC.

- 9 (1) The following requirements (however expressed) do not apply—
- (a) a requirement for a relevant person to be physically in the same place as another person when that person—
    - (i) signs or subscribes a document,
    - (ii) takes an oath, or
    - (iii) makes an affirmation or declaration,
  - (b) a requirement for another person to be physically in the same place as a relevant person when the relevant person signs or subscribes a document.
- (2) In this paragraph—
- “relevant person” means—
- (a) a solicitor,
  - (b) an advocate,
  - (c) a notary public,
- “requirement” means a requirement arising from an enactment or rule of law.
- (3) For the avoidance of doubt—
- (a) the requirements described by sub-paragraph (1)(a) include a requirement that may be fulfilled by the physical presence of a professional of a type not mentioned in the definition of “relevant person” as well as by a professional of a type that is (for example, it includes a requirement for the physical presence of a solicitor or a registered medical practitioner), but
  - (b) sub-paragraph (1) only causes such a requirement not to apply in relation to a professional of a type that is mentioned in the definition of “relevant person”.

## PART 8

### FREEDOM OF INFORMATION

#### *Modification of Coronavirus (Scotland) Act 2020*

- 10 (1) Part 2 of schedule 6 of the Coronavirus (Scotland) Act 2020 (freedom of information) is amended by this paragraph.
- (2) In paragraph 6(2), in sub-sub-paragraph (a)—
- (a) the words from “the effect” to “coronavirus),” become sub-sub-sub-paragraph (i),
  - (b) after that sub-sub-sub-paragraph insert “or

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*Status: Point in time view as at 29/03/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) (No.2) Act 2020. (See end of Document for details)*

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- (ii) the authority operating under requirements of Part 2 of this schedule that were subsequently repealed before the end of the period during which Part 1 of this Act is in force.”.
- (3) After paragraph 6(2), insert—
- “(2A) In considering whether the failure was reasonable in all the circumstances, the Commissioner must regard the public interest in section 1(1) being complied with promptly as the primary consideration.”.”.
- 11 (1) The Coronavirus (Scotland) Act 2020 is amended as follows.
- (2) In schedule 6, Part 2 (freedom of information), the following paragraphs are repealed—
- (a) paragraph 3,
  - (b) paragraph 4,
  - (c) paragraph 5.

*Reporting on Scottish Ministers' responses to requests for information*

- 12 (1) The Scottish Ministers must lay reports before the Scottish Parliament in accordance with this paragraph on their responses to requests for information under the Freedom of Information (Scotland) Act 2002 during the period that Part 2 of schedule 6 of the Coronavirus (Scotland) Act 2020 is in force.
- (2) A report under sub-paragraph (1) must contain information on—
- (a) backlogs in responding to requests,
  - (b) how many requests have been responded to,
  - (c) what was provided in response to requests,
  - (d) cases which were partially refused,
  - (e) the number of requests subject to an internal review,
  - (f) backlogs in the internal review process,
  - (g) appeals made to the Scottish Information Commissioner in respect of requests.
- (3) A report under sub-paragraph (1) should be laid before the Parliament at the end of each reporting period.
- (4) A “reporting period” under sub-paragraph (3) is each successive period of 2 months that ends during the period before Part 1 expires by virtue of section 9(1).
- (5) The Scottish Ministers must lay a report under this paragraph before the Parliament no later than 14 days after the expiry of a reporting period.

## **PART 9**

### LOW EMISSION ZONES

- 13 (1) This paragraph applies in relation to low emission zones in Part 2 of the Transport (Scotland) Act 2019.
- (2) The Scottish Ministers must lay a report before the Scottish Parliament on progress towards establishing low emission zones by 4 December 2020.

*Status: Point in time view as at 29/03/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) (No.2) Act 2020. (See end of Document for details)*

- (3) A report under sub-paragraph (2) must include information on—
- (a) how progress has been impeded by coronavirus,
  - (b) how account has been taken of the impact low emission zones would have on the public health response to coronavirus.

## PART 10

### COUNCIL TAX: EXEMPT DWELLINGS

- 14 (1) The Council Tax (Exempt Dwellings) (Scotland) Order 1997 (S.I. 1997/728) applies in accordance with the modification in this paragraph.
- (2) Schedule 1 has effect as if after paragraph 12 there were inserted—
- “12AA dwelling which—
- (a) became unoccupied for a reason relating to coronavirus on or after 17 March 2020,
  - (b) was, immediately prior to becoming unoccupied, an exempt dwelling under paragraph 10 or 12 above, and
  - (c) remains unoccupied.”.

## PART 11

### TRAFFIC REGULATION

- 15 (1) The Road Traffic Regulation Act 1984 applies in accordance with the modifications in this paragraph.
- (2) Section 15 has effect as if—
- (a) in subsection (1)(a) for “six months” there were substituted “ eighteen months ”,
  - (b) in subsection (5) for “six months” there were substituted “ eighteen months ”.

## PART 12

### RESTRICTION ON GIVING GRANT TO BUSINESSES CONNECTED TO TAX HAVENS

- 16 (1) Before providing a coronavirus-related grant to a person, the Scottish Ministers must take steps to satisfy themselves about whether or not sub-paragraph (4) applies to the person.
- (2) If, having taken those steps, the Scottish Ministers are satisfied that sub-paragraph (4) applies to the person, they are not to provide the grant.
- (3) The Scottish Ministers must frame the terms of coronavirus-related grants so that they are entitled to repayment of a grant if they ascertain, after providing it (wholly or partly), that the person to whom the grant was provided—
- (a) was a person that sub-paragraph (4) applied to at the time the Ministers decided to provide the grant, or
  - (b) knowingly provided false or misleading information in applying for the grant.

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*Status: Point in time view as at 29/03/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Coronavirus (Scotland) (No.2) Act 2020. (See end of Document for details)*

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- (4) This sub-paragraph applies to a person that—
- (a) is based in a tax haven,
  - (b) is the subsidiary of a person based in a tax haven,
  - (c) has a subsidiary based in a tax haven,
  - (d) is party to an arrangement under which any of its profits are subject to the tax regime of a tax haven.
- (5) For the purposes of this paragraph, a person is based in a tax haven if the person is incorporated or otherwise established under the law of a tax haven.
- (6) Sub-paragraphs (1) to (3) do not apply in relation to a grant if the application for it was received by the Scottish Ministers before the date on which this paragraph comes into force.
- (7) In this paragraph—
- “coronavirus-related grant” means a grant to mitigate the effects on the person's business of disruption attributable to coronavirus,
  - “subsidiary” is to be read in accordance with section 1159 of the Companies Act 2006,
  - “tax haven” means a jurisdiction for the time being included in—
    - (a) the revised EU list of non-cooperative jurisdictions for tax purposes set out in Annex I to the Council of the European Union's conclusions of February 2020 on the revised EU list of non-cooperative jurisdictions for tax purposes (2020/C 64/03), or
    - (b) any successor list of jurisdictions endorsed for the same purposes by the Council.

**Status:**

Point in time view as at 29/03/2021.

**Changes to legislation:**

There are currently no known outstanding effects for the Coronavirus (Scotland) (No.2) Act 2020.