



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

## 2020 asp 10

### 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.

##### *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.

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*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.”.

**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—

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- (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 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,

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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.

### **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.

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- (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).
- (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—

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- (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—
  - (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.

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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.
- (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—
  - (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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