

CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020

EXPLANATORY NOTES

DETAIL ABOUT PROVISIONS

Schedule 1: Protection of the individual

Powers to purchase care home services and care at home providers

64. Paragraphs 18 to 20 provide a local authority and various health bodies with temporary powers to purchase a care home or a care at home service. Paragraph 18 provides that a local authority may purchase, by agreement, a care home service, a care at home service and any asset or liability of those services under the circumstances outlined in Paragraph 20. A local authority can exercise these powers without prejudice to its powers to purchase or acquire property or land contained at sections 69 and 70 of the Local Government (Scotland) Act 1973.
65. Paragraph 19 provides that a health body (a Health Board, the Common Services Agency and Health Improvement Scotland) may purchase, by agreement, a care home service and any asset or liability of that provider on behalf of Scottish Ministers under the circumstances in Paragraph 20. Paragraph 19 also provides that the health body must comply with a written direction by Scottish Ministers. Directions must be published and they can be varied or revoked by a subsequent direction.
66. Paragraph 20 describes the circumstances in which the local authority can purchase the provider of a care home or care at home services (or any asset or liability of that provider) and a health body can purchase the provider of a care at home service (or any asset or liability of that provider). These circumstances are where, for a reason related to coronavirus: the provider is in serious financial difficulty; the local authority or health body is satisfied there is a threat to the life, health or wellbeing of people receiving the service; or where a provider has recently stopped providing the services.
67. Paragraphs 20(3) and 20(4) set out that a provider is regarded as being in serious financial difficulty if it notifies the Care Inspectorate of an insolvency event. An insolvency event is defined with reference to regulation 6A, 6B or 6C of the Social Care and Social Work Improvement Scotland (Requirements for Care Services) Regulations 2011. After receiving notification of such an event, the Care Inspectorate must inform any local authority and health board in whose areas the services are being provided, the Common Services Agency and Healthcare Improvement Scotland.
68. Paragraph 20(5) provides that before being satisfied as to the threat to life, health or wellbeing, the purchaser must consult the Care Inspectorate, any other local authority or health board in whose area the services are being provided, the Common Services Agency, Healthcare Improvement Scotland and any other persons or bodies it considers appropriate.
69. Paragraph 21 contains definitions of terminology used in paragraphs 18 to 20.