

CORONAVIRUS (SCOTLAND) ACT 2020

EXPLANATORY NOTES

DETAIL ABOUT PROVISIONS

Schedule 6 – Functioning of public bodies

Part 3 - Duties in respect of reports and other documents

Power to postpone publication and laying of reports

240. Paragraph 8 applies to any statutory duty, within the competence of the Scottish Parliament to amend, that requires the Scottish Ministers or a Scottish public authority to publish a report in connection with the exercise of their functions on or by a particular date.
241. Subparagraph (2) provides that the Scottish Ministers or a Scottish public authority may decide to postpone complying with such a duty if they consider that doing so would impede their ability to take action to combat coronavirus. If they decide to do so, under subparagraph (3) they must publish a statement to that effect, on or before the date the report is due or as soon as reasonably practical afterwards. Subparagraph (4) requires the statement to indicate that the report will be published once the coronavirus outbreak is over, in accordance with paragraph 10.
242. Subparagraph (5) provides that the power to postpone reporting does not apply to any duty contained in the Act itself, to accounts or associated documents required under section 19 or 20 of the Public Finance and Accountability (Scotland) Act 2000 (see paragraph 15), or to documents covered by paragraph 9.

Power to publish or make available documents for inspection electronically

243. Paragraph 9 applies to any statutory duty, within the competence of the Scottish Parliament to amend, that requires the Scottish Ministers or a Scottish public authority to physically publish or publicise a document, make a document available for physical inspection, give notice of where such a document can be inspected, or lay a document before the Scottish Parliament.
244. Subparagraph (2) provides that the Scottish Ministers or a Scottish public authority may decide not to comply with such a duty, if they consider that doing so may give rise to a significant risk of transmission of coronavirus (for example by providing public access to an office) or would be ineffective or inappropriate due to action taken to control the incidence or transmission of coronavirus (for example, placing copies in libraries that are closed). Where they decide not to comply with the duty, under subparagraph (3) they must, if possible, publish, give notice or make the document or information available electronically. If they consider this is not possible, they must publish a statement to that effect, as required by subparagraph (4).
245. Where a duty to which this paragraph applies includes a requirement to make a statement to the Scottish Parliament about the document on a particular date or within

*These notes relate to the Coronavirus (Scotland) Act
2020 (asp 7) which received Royal Assent on 6 April 2020*

a particular period, subparagraph (5) provides that it is sufficient for the statement to be made as soon as is reasonably practicable.

Resumption of duties in relation to reports and documents

246. Subparagraphs (1) and (2) of paragraph 10 provide that, where the Scottish Ministers or a Scottish public authority have decided under paragraph 9 to postpone complying with a duty to publish a report, they must publish that report as soon as reasonably practicable, and in any case within 6 months after paragraph 9 Act ceases to have effect.
247. Subparagraphs (3) and (4) deal with what the Scottish Ministers or a Scottish public authority must do once the coronavirus outbreak is over, or paragraph 9 has ceased to have effect, if they have decided under paragraph 10 not to comply with a duty to publish, lay, notify or make a document available physically. If the duty was to lay a document before the Scottish Parliament, they must do that as soon as reasonably practicable. In any other case, they must either take steps to comply with the duty, or publish a statement setting out why they are not complying. This may be, for example, that they have published it electronically and they consider it is not necessary to do any more, or that the information is no longer relevant.