Coronavirus (Extension and Expiry) (Scotland) Act 2021

2021 asp 19

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The Bill for this Act of the Scottish Parliament was passed by the Parliament on 24th June 2021 and received Royal Assent on 4th August 2021

An Act of the Scottish Parliament to extend the period for which Part 1 of the Coronavirus (Scotland) Act 2020 and Part 1 of the Coronavirus (Scotland) (No.2) Act 2020 are in force; to provide for the expiry of certain provisions of those Parts; and for connected purposes.

1 Extension of provisions S

(1) Section 12 of the Coronavirus (Scotland) Act 2020 is amended in accordance with subsections (2)and (3).

(2) In subsection (1), for "on 30 September 2021" substitute " at the end of 31 March 2022 ".

(3) For subsections (3) and (4), substitute—

"(3) The Scottish Ministers may by regulations amend subsection (1) so as to replace "31 March 2022" with " 30 September 2022 ".".

(4) Section 9 of the Coronavirus (Scotland) (No.2) Act 2020 is amended in accordance with subsections (5)and (6).

(5) In subsection (1), for "on 30 September 2021" substitute " at the end of 31 March 2022 ".

(6) For subsections (3) and (4), substitute—

"(3) The Scottish Ministers may by regulations amend subsection (1) so as to replace "31 March 2022" with " 30 September 2022 ".".

Changes to legislation: *There are currently no known outstanding effects for the Coronavirus (Extension and Expiry) (Scotland) Act 2021. (See end of Document for details)*

2 Expiry of provisions S

(1) The provisions of the Coronavirus (Scotland) Act 2020 referred to in subsections (2) to (7) expire at the end of 30 September 2021.

(2) In schedule 2, paragraphs 2 and 3 (moratorium on diligence: multiple applications).

(3) Schedule 3 (children and vulnerable adults).

(4) In schedule 4—

(a) paragraph 11 (exceptions to the rule that hearsay evidence is inadmissible),

(b) paragraph 12 (community payback orders: extension of unpaid work or other activity requirements),

(c) paragraph 14 (community orders: postponement),

(d) in paragraph 15 (community orders: variation)—

(i) in sub-paragraph (1), the words "and drug treatment and testing orders",

(ii) in sub-paragraph (6), the words "or drug treatment and testing order".

(5) In paragraph 4 of schedule 5 (alcohol licensing: licensing boards etc.), sub-paragraph (5)(d).

(6) In schedule 6—

(a) paragraph 6 (freedom of information: Commissioner's ability to take account of impact of coronavirus),

(b) paragraph 13 (grounds for exclusion of the public from meetings of local authorities),

(c) paragraph 15 (duties under the Public Finance and Accountability (Scotland) Act 2000).

(7) In schedule 7—

(a) paragraphs 1 and 5 (social security: period for re-determination of entitlement),

(b) paragraphs 23 to 30 (scrutiny of subordinate legislation in urgent cases).

(8) The following provisions of schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 expire at the end of 30 September 2021—

(a) in paragraph 3 (termination of student residential tenancy by tenant: requirements for notice)—

(i) sub-paragraph (2)(b)(i),

(ii) in sub-paragraph (2)(b)(ii), the words "in any other case,",

(iii) sub-paragraphs (3) and (4),

(b) paragraph 6 (carer's allowance supplement),

(c) paragraph 24 (marriages and civil partnerships during emergency period).

(9) For the purpose of section 13(1) of the Coronavirus (Scotland) Act 2020, the expiry of a provision of that Act by virtue of this section is to be treated as if it were by virtue of previous regulations under section 13(1) of that Act.

(10) For the purpose of section 10(1) of the Coronavirus (Scotland) (No.2) Act 2020, the expiry of a provision of that Act by virtue of this section is to be treated as if it were by virtue of previous regulations under section 10(1) of that Act.

3 Suspension of provisions S

(1) The operation of paragraphs 22 and 23 (care homes: inspections and reporting on coronavirus deaths) of schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020 is suspended at the end of 30 September 2021.

(2) For the purpose of section 8(1)(b) and (2) of the Coronavirus (Scotland) (No.2) Act 2020, the suspension by virtue of subsection (1) is to be treated as if it were by virtue of section 8(1)(a) of that Act.

4 Notice of changes to coronavirus related measures S

(1) The Scottish Ministers must, at least 24 hours before the proposed change would come into effect, lay before the Scottish Parliament a statement notifying it of any proposal to change a measure put in place by them to respond to the effect of the spread or incidence of coronavirus under—
  (a) the Coronavirus (Scotland) Act 2020, or
  (b) the Coronavirus (Scotland) (No.2) Act 2020.

(2) Subsection (1) does not apply if the Scottish Ministers consider that there are reasons of urgency which mean that it is not possible to comply with the requirement imposed by that subsection.

(3) Where the Scottish Ministers rely on subsection (2), they must as soon as possible lay before the Scottish Parliament a statement explaining the circumstances.

(4) In this section, "coronavirus" has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020.

5 Report on certain matters relating to Act S

(1) The Scottish Ministers must no later than one month after the day of Royal Assent lay before the Scottish Parliament a report of—
  (a) progress being made towards marriage ceremonies and civil partnership registrations and associated celebratory events being able to be held without restrictions arising from the spread or incidence of coronavirus,
  (b) their view of the effect of this Act on—
    (i) the measures in place to help businesses to deal with the effects of disruption attributable to coronavirus,
    (ii) live music and live music venues,
    (iii) social security support available for carers,
    (iv) support available to persons who are required to self-isolate for a reason relating to coronavirus, and
    (v) social care services, and
  (c) the use of fiscal fines (that is, conditional offers of fixed penalties under section 302 of the Criminal Procedure (Scotland) Act 1995) during the period beginning on 7 April 2020 and ending on the day of Royal Assent.

(2) The report must in particular include—
  (a) information on the restrictions remaining in place as respects the holding of marriage ceremonies and civil partnership registrations and associated celebratory events,

(b) information on the measures in place to help businesses deal with the effect of disruption attributable to coronavirus and any plans for further measures the Scottish Ministers propose to put in place to help businesses,

(c) information on the social security support to help carers put in place for a reason related to coronavirus and any plans for further social security support to help carers the Scottish Ministers propose to put in place for such a reason,

(d) information on the support available to persons who are required to self-isolate for a reason relating to coronavirus and any plans for further support for such persons the Scottish Ministers propose to put in place,

(e) information on the measures in place to restore social care services to their level as at 1 March 2020 and any plans for further measures the Scottish Ministers propose to put in place to secure this, and

(f) information on—

(i) the numbers of fiscal fines issued for each level on the scale during the period mentioned in subsection (1)(c), and

(ii) the numbers of fiscal fines issued for each level of the scale in the period ending on 6 April 2020 which is of the same length as the period mentioned in subsection (1)(c).

(3) In this section—

"carer" has the meaning given by section 1 of the Carers (Scotland) Act 2016,

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

"the scale" means the scale in the schedule of the Criminal Procedure (Scotland) Act 1995 Fixed Penalty Order 2008 (S.S.I. 2008/108) (as it had effect at the time).

6 Reporting on status of eviction provisions S

(1) Each report required by section 15(1) of the Coronavirus (Scotland) Act 2020 must also include information on the operation during the period to which the report relates of schedule 1 of that Act, including in particular—

(a) the measures in place to protect tenants from eviction and any plans for further measures the Scottish Ministers propose to put in place to protect tenants from eviction,

(b) the number of notices of proceedings issued to tenants in social housing as a result of rent arrears in the period,

(c) the total value of rent arrears in the social housing sector accumulated during the period, and

(d) the number of eviction orders because of rent arrears issued by the First-tier Tribunal for Scotland during the period.

(2) But subsection (1) does not require a report to include information on the operation of a provision if the provision has been expired before the period to which the report relates.

7 Report on effect of Act on social care services S

(1) The Scottish Ministers must prepare and publish a report on the effect that the extension and expiry of provisions by this Act is likely to have on social care services.

(2) The report must set out in particular whether the Scottish Ministers consider that further measures are required to ensure the early restoration of the availability of social care support packages and respite services to at least the level available prior to 1 March 2020.

(3) The report under this section must be laid before the Scottish Parliament no later than one month after the day of Royal Assent.

8 Minor and consequential provisions S

(1) Section 4 (children and vulnerable adults) of the Coronavirus (Scotland) Act 2020 is repealed, together with the italic heading immediately preceding it.

(2) In section 12(6) of the Coronavirus (Scotland) Act 2020, for "Before" substitute " At the same time as ".

(3) In section 12 of the Coronavirus (Scotland) Act 2020, subsections (7) and (8) are repealed.

(4) In schedule 4 of the Coronavirus (Scotland) Act 2020, paragraph 16 (community orders: interpretation) is amended as follows—
   (a) in the opening words, for the words "paragraphs 12, 14 and" substitute " paragraph ",
   (b) the definition of "drug treatment and testing order" is repealed,
   (c) in the definition of "relevant local authority", paragraph (b) is repealed,
   (d) the definition of "specified period" is repealed.

(5) In schedule 6 of the Coronavirus (Scotland) Act 2020, paragraph 11(a) (local authority meetings: introductory) is repealed.

(6) In section 9(6) of the Coronavirus (Scotland) (No.2) Act 2020, for "Before" substitute " At the same time as ".

(7) In section 9 of the Coronavirus (Scotland) (No.2) Act 2020, subsections (7) and (8) are repealed.

(8) In schedule 1 of the Coronavirus (Scotland) (No.2) Act 2020, in paragraph 1(3) (termination of student residential tenancy by tenant: interpretation), the words "(except in paragraph 3(3))" are repealed.

(9) In schedule 4 of the Coronavirus (Scotland) (No.2) Act 2020, paragraphs 10 and 11 (freedom of information: modification of Coronavirus (Scotland) Act 2020) are repealed.

(10) The following instruments are revoked—
   (a) the Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2020 (S.S.I. 2020/299), and
   (b) the Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2021 (S.S.I. 2021/152).

(11) The Coronavirus (Scotland) Act 2020 (Suspension: Adults with Incapacity) Regulations 2020 (S.S.I. 2020/267) are revoked.

(12) Regulation 4 of the Coronavirus (Scotland) Acts (Early Expiry and Suspension of Provisions) Regulations 2021 (S.S.I. 2021/93) is revoked.

Commencement Information

I1 S. 8(2)(10) in force at 5.8.2021, s. 8(1)(3)(4)(5)(7)(8)(11)(12) in force at the end of 30.9.2021, see s. 11

9 Transitional and saving provisions S

The schedule contains transitional and saving provisions.

10 Power to make provision in connection with expiry S

(1) The Scottish Ministers may by regulations make consequential, transitional, transitory or saving provision in connection with the expiry under section 2 of any provision of—

(a) the Coronavirus (Scotland) Act 2020, or

(b) the Coronavirus (Scotland) (No.2) Act 2020.

(2) Regulations under subsection (1) may—

(a) make different provision for different purposes or areas,

(b) modify any enactment (including this Act).

(3) Regulations under subsection (1)—

(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 Commencement S

(1) Subsections (1), (3), (4), (5), (7), (8), (11) and (12) of section 8 come into force at the end of 30 September 2021.

(2) The other provisions of this Act come into force on the day after Royal Assent.

12 Short title S

The short title of this Act is the Coronavirus (Extension and Expiry) (Scotland) Act 2021.

***Changes to legislation:** There are currently no known outstanding effects for the Coronavirus (Extension and Expiry) (Scotland) Act 2021. (See end of Document for details)*

SCHEDULE S

(introduced by section 9)

TRANSITIONAL AND SAVING PROVISIONS

Children

1 (1) Despite sections 2(3)and 8(1), section 4 of the Coronavirus (Scotland) Act 2020 and the provisions of that Act referred to in sub-paragraphs (2)to (6)continue in effect as described in those sub-paragraphs.

(2) In paragraph 2 of schedule 3, sub-paragraphs (1) to (6) continue in effect in relation to a child protection order made before the end of 30 September 2021.

(3) Paragraph 3 of schedule 3 continues in effect in relation to a compulsory supervision order if, at the end of 30 September 2021, the order has effect by virtue of section 83(7A) of the Children's Hearings (Scotland) Act 2011.

(4) Paragraph 4 of schedule 3 continues in effect in relation to—

(a) an interim compulsory supervision order made before the end of 30 September 2021 (but not in relation to the extension, or extension and variation, of such an order where the extension, or extension and variation, is made after 30 September 2021), and

(b) an interim variation of compulsory supervision order made before the end of 30 September 2021, but

where a sheriff specifies a period of days in accordance with section 86(3)(d)(ii), 86(3)(e)(ii) or 140(4)(d)(ii) of the Children's Hearings (Scotland) Act 2011 and that period expires after 12 November 2021, the period is to be treated as expiring at the end of 12 November 2021.

(5) In paragraph 7 of schedule 3, sub-paragraphs (1) to (8) and (11) to (14) continue in effect in relation to the appeal of a decision or determination where the decision or determination in question is made before the end of 30 September 2021.

(6) In paragraph 10 of schedule 3, sub-paragraphs (1) to (5) continue in effect in relation to a child where, at the end of 30 September 2021—

(a) the child is in a placement with a foster carer where the placement of the child by the local authority has resulted in more than three children (who are not all siblings of each other) being placed with that foster carer at any one time, and

(b) the child is not the subject of an emergency or short-term placement with a foster carer as mentioned in regulation 27A(2)(b) of the Looked After Children (Scotland) Regulations 2009 (S.S.I. 2009/210).

(7) Where by virtue of sub-paragraph (6), sub-paragraphs (1) to (5) of paragraph 10 of schedule 3 continue in effect in relation to a child, regulation 27B(2) to (7) of the Looked After Children (Scotland) Regulations 2009 is to be treated as applying in relation to the child.

(8) In that application—

(a) the reference in regulation 27B(2) to the date on which A is placed with the foster carer is to be read as a reference to 30 September 2021, and

(b) the references in regulation 27B(4) and (5) to A are to be read as references to the child.

Changes to legislation: *There are currently no known outstanding effects for the Coronavirus (Extension and Expiry) (Scotland) Act 2021. (See end of Document for details)*

Freedom of information: Commissioner's ability to take account of impact of coronavirus

2 Despite section 2(6)(a), paragraph 6 of schedule 6 of the Coronavirus (Scotland) Act 2020 continues in effect in relation to a request made under section 1(1) of the Freedom of Information (Scotland) Act 2002 before the end of 30 September 2021.

Changes to legislation:
There are currently no known outstanding effects for the Coronavirus (Extension and Expiry) (Scotland) Act 2021.