

# **CORONAVIRUS (RECOVERY AND REFORM) (SCOTLAND) ACT 2022**

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## **EXPLANATORY NOTES**

### **THE ACT: OVERVIEW**

#### **Part 3: Public Service Reform**

##### **Care services**

##### ***Section 38: Care services: giving of notices by SCSWIS***

140. Section 101 of the Public Services Reform (Scotland) Act 2010 sets out how Social Care and Social Work Improvement Scotland (otherwise known as the Care Inspectorate) is to give a notice to a person providing, or seeking to provide, a care service when required to do so under that Act.
141. **Section 38** of this Act amends the law on giving notice by “personal service” in relation to corporate bodies, and on giving notice electronically, making permanent the temporary modification of the Public Services Reform (Scotland) Act 2010 which was made by paragraph 5 of schedule 4 of the Coronavirus (Scotland) (No.2) Act 2020.
142. The new section 101(1)(a)(ii) and (2) of the Public Services Reform (Scotland) Act 2010 enable the Care Inspectorate, when delivering a notice personally to a body corporate (for instance, following an on-site inspection), to serve it on a wider range of people, including a care home manager or a director, secretary or other similar officer of the body. Section 101(1)(c) also enables the Care Inspectorate to send formal notices to registered care service providers, and those seeking to provide a care service, by electronic means.
143. **Section 101(3)** and **(4)** set out the practicalities of giving notice by post or electronic means to care service providers and those seeking to provide a care service, including when receipt of those notices is deemed to have taken place.
144. **Section 101(4)** provides further detail in relation to notices given by the Care Inspectorate by electronic means. Notices under this provision may be given when a person has indicated to the Care Inspectorate that it is willing to receive them in this way. An indication of a person’s willingness may be specific to the notice in question or more generally applicable to notices or other documents of that kind. Willingness may be communicated directly to the Care Inspectorate or expressed more generally on a website or by some other similar expression. Unless a person has indicated otherwise, willingness to receive a notice by electronic means may also be inferred from a person’s previous willingness to receive notices or documents in this way. Electronic transmission may also take place where a notice has been uploaded to an electronic storage system from which the person is able to download the notice and that person is sent a notification informing them that a notice has been uploaded in this way.