

SCHEDULE 6

(introduced by section 7)

FUNCTIONING OF PUBLIC BODIES

PART 1

LICENSING OTHER THAN ALCOHOL LICENSING

Modifications of Civic Government (Scotland) Act 1982 etc.

- 1 (1) The Civic Government (Scotland) Act 1982 applies in accordance with the modifications in sub-paragraphs (2) to (8).
- (2) Section 3 (discharge of functions of licensing authorities) has effect as if—
 - (a) in subsection (1)(b), for “6 months” there were substituted “9 months”,
 - (b) in both subsections (2) and (4)(a), for “6 month” there were substituted “9 month”.
- (3) Section 7 (offences, etc.) has effect as if after subsection (7) there were inserted—

“(7A) Where an extract cannot be transmitted to the licensing authority within the period required by subsection (7) because of a reason relating to coronavirus, it must be transmitted as soon as reasonably practicable afterwards.”.
- (4) Section 27 (functions of the court in relation to second-hand dealers convicted of offences) has effect as if after subsection (1) there were inserted—

“(1A) Where an extract cannot be transmitted to the licensing authority within the period required by subsection (1) because of a reason relating to coronavirus, it must be transmitted as soon as reasonably practicable afterwards.”.
- (5) Section 35 (functions of the court in relation to metal dealers convicted of offences) has effect as if after subsection (1) there were inserted—

“(1A) Where an extract cannot be transmitted to the licensing authority within the period specified in subsection (1) because of a reason relating to coronavirus, it must be transmitted as soon as reasonably practicable afterwards.”.
- (6) Section 133 (interpretation) has effect as if after “requires—” there were inserted—

““coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020,”.
- (7) Schedule 1 (licensing: further provisions as to the general system) has effect as if—
 - (a) in paragraph 2(8), after “the authority” there were inserted “, or by publication of a notice on the licensing authority’s website,”,
 - (b) in paragraph 8(5A), for “28 days” there were substituted “3 months”,
 - (c) in paragraph 10(3), the words “to attend and” were repealed,
 - (d) in paragraph 13(2)(a), for “7 days” there were substituted “14 days”,
 - (e) after paragraph 13(2) there were inserted—

“(2A) Where a licence cannot be delivered to the licensing authority within the period required by sub-paragraph (2)(a) because of a

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reason relating to coronavirus, it must be delivered as soon as reasonably practicable afterwards.”,

- (f) in paragraph 17(1), for “10 days” there were substituted “15 days”,
- (g) after paragraph 17(2) there were inserted—

“(2A) Where a licensing authority cannot give reasons for a decision within the period required by sub-paragraph (1) because of a reason relating to coronavirus, it must—

- (a) notify the person who made the request that there will be a delay, and
- (b) give the reasons as soon as reasonably practicable after that period.”,
- (h) after paragraph 18A there were inserted—

“Further provision about hearings

18B Where by virtue of this schedule a licensing authority is required to, or may, give a person an opportunity to be heard, the authority may determine that the hearing cannot be held in person because of a reason relating to coronavirus.

18C Where a licensing authority determines under paragraph 18B that a hearing cannot be held in person, the authority must comply with paragraph 18D before reaching a decision on the matter which would have been the subject of the hearing.

18D The licensing authority must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by whichever of the following means the person prefers—

- (a) telephone,
- (b) written representations, including by means of an electronic communication, or
- (c) video conference, if the authority has video conference facilities.

18E For the purposes of this schedule, where a licensing authority gives a person an opportunity to be heard by written representations and the hearing is to take place on a particular day, the hearing is to be treated as taking place on the day on which the authority determines that it will consider the written representations (if any), and a reference to the date or day of any such hearing (which is to take place) is to be construed accordingly.

18F Where a licensing authority gives a person an opportunity to be heard under paragraph 18D by telephone, written representations or video conference, and the holding of the hearing by that means would be inconsistent with a requirement imposed by regulations under paragraph 18A, the requirement of the regulations is to be construed as permitting the hearing by that means.”.

- (8) Schedule 2 (control of sex shops) has effect as if—

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- (a) in paragraph 7(2), after “area” there were inserted “, or by publishing an advertisement on the local authority’s website,”,
- (b) in paragraph 12(3A), for “28 days” there were substituted “3 months”,
- (c) in paragraph 15(3), the words “to attend and” were repealed,
- (d) in paragraph 16(2), for “7 days”, in both places where it occurs, there were substituted “14 days”,
- (e) after paragraph 16(2) there were inserted—
 - “(2A) Where a licence cannot be delivered to the local authority within the period required by sub-paragraph (2) because of a reason relating to coronavirus, it must be delivered as soon as reasonably practicable afterwards.”,
- (f) in paragraph 23(1), for “10 days” there were substituted “15 days”,
- (g) after paragraph 23(2) there were inserted—
 - “(2A) Where a local authority cannot give reasons for a decision within the period required by sub-paragraph (1) because of a reason relating to coronavirus, it must—
 - (a) notify the person who made the request that there will be a delay, and
 - (b) give the reasons as soon as reasonably practicable after that period.”,
- (h) after paragraph 24A there were inserted—

“Further provision about hearings

- 24B Where by virtue of this schedule a local authority is required to, or may, give a person an opportunity to be heard, the authority may determine that the hearing cannot be held in person because of a reason relating to coronavirus.
- 24C Where a local authority determines under paragraph 24B that a hearing cannot be held in person, the authority must comply with paragraph 24D before reaching a decision on the matter which would have been the subject of the hearing.
- 24D The local authority must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by whichever of the following means the person prefers—
 - (a) telephone,
 - (b) written representations, including by means of an electronic communication, or
 - (c) video conference, if the authority has video conference facilities.
- 24E For the purposes of this schedule, where a local authority gives a person an opportunity to be heard by written representations and the hearing is to take place on a particular day, the hearing is to be treated as taking place on the day on which the authority determines that it will consider the written representations (if any), and a reference to the date or day of any such hearing (which is to take place) is to be construed accordingly.

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24F Where a local authority gives a person an opportunity to be heard under paragraph 24D by telephone, written representations or video conference, and the holding of the hearing by that means would be inconsistent with a requirement imposed by regulations under paragraph 24A, the requirement of the regulations is to be construed as permitting the hearing by that means.”.

- (9) The Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Order 2006 ([S.S.I. 2006/43](#)) applies in accordance with the modification in sub-paragraph (10).
- (10) In the schedule (application of Part 1 of the 1982 Act), paragraph 2 has effect as if for the number “6”, in both places where it occurs, there were substituted “9”.

PART 2

FREEDOM OF INFORMATION

Interpretation

- 2 In this Part (other than this paragraph)—
- (a) references to sections and Parts are to sections and Parts of the Freedom of Information (Scotland) Act 2002, and
 - (b) expressions used in this Part and in that Act have the same meaning as in that Act.

Time periods for responding to requests

- 3 (1) Section 10 (time for compliance) has effect as if modified as follows—
- (a) in subsection (1), for “twentieth” there were substituted “sixtieth”,
 - (b) in subsection (2), in the closing text, for—
 - (i) “twentieth” there were substituted “sixtieth”,
 - (ii) “thirtieth” there were substituted “seventieth”,
 - (c) in subsection (3), in the closing text, for—
 - (i) “twentieth” there were substituted “sixtieth”,
 - (ii) “thirtieth” there were substituted “seventieth”.
- (2) Section 21 (review by Scottish public authority) has effect as if modified as follows—
- (a) in subsection (1), for “twentieth” there were substituted “sixtieth”,
 - (b) in subsection (2), in the closing text, for—
 - (i) “twentieth” there were substituted “sixtieth”, and
 - (ii) “thirtieth” there were substituted “seventieth”.
- 4 The Freedom of Information (Scotland) Act 2002 (Time for Compliance) Regulations 2016 ([S.S.I. 2016/346](#)) have no effect.

Extension of periods in which certain authorities may respond

- 5
- (1) This paragraph applies where the Scottish Ministers are of the view that the exercise of the powers conferred by this paragraph will enable Scottish public authorities to better utilise resources to respond to coronavirus.
 - (2) The Scottish Ministers may by direction specify circumstances in which a Scottish public authority other than the Scottish Ministers may extend a relevant period.
 - (3) A direction under sub-paragraph (2) must specify—
 - (a) the maximum period by which the relevant period may be extended, which may not exceed 40 working days,
 - (b) that the Scottish public authority must give the applicant notice of the decision to extend the relevant period promptly and in any event no later than before the relevant period expires, and
 - (c) the contents of the notice to be given under paragraph (b), which must include—
 - (i) the authority’s reasons for extending the period, and
 - (ii) particulars about the right to a requirement for review under section 20(1) or, as the case may be, the right to apply to the Commissioner under section 47(1).
 - (4) A direction under sub-paragraph (2) may specify different provision for different purposes and, in particular, different provision in respect of different Scottish public authorities.
 - (5) Before giving a direction under sub-paragraph (2), the Scottish Ministers must consult the Commissioner.
 - (6) The Scottish Ministers may vary or revoke a direction given under sub-paragraph (2) by giving another direction.
 - (7) The Scottish Ministers must—
 - (a) publish a direction given by them under this paragraph in such manner as they consider appropriate, and
 - (b) give a copy of the direction to the Commissioner.
 - (8) For the purposes of this paragraph, “relevant period”, in relation to a request for information (or a subsequent requirement for review), means a period specified in section 10(1) or section 21(1) as those periods have effect by virtue of paragraph 3.

Commissioner’s ability to take account of impact of coronavirus

- 6
- (1) This paragraph applies in relation to an application made under section 47(1) (which is not excluded by section 48) in respect of which there is a failure of the Scottish public authority to comply with a relevant period.
 - (2) Despite section 49(6), the Commissioner may decide that the Scottish public authority has not failed to comply with Part 1 by reason only of its failure to comply with a relevant period if the Commissioner is satisfied that the failure was—
 - (a) due to the effect of coronavirus on the authority generally or its ability to carry out its functions (including any action it had to take to better utilise its resources to deal with the effect of coronavirus), and
 - (b) reasonable in all the circumstances.

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- (3) For the purposes of this paragraph, “relevant period”, in relation to a request for information (or a subsequent requirement for review), means a period specified in section 10(1) or section 21(1), either as it has effect by virtue of paragraph 3 or otherwise.

Giving notice electronically

- 7 Section 74(1)(a) (giving of notice etc.) has effect as if modified so that after sub-paragraph (ii) there were inserted “, or
(iii) transmitted by electronic means,”.

PART 3

DUTIES IN RESPECT OF REPORTS AND OTHER DOCUMENTS

Power to postpone publication and laying of reports

- 8 (1) This paragraph applies to a statutory duty (however expressed)—
- (a) that is within the legislative competence of the Scottish Parliament to amend, and
 - (b) that requires the Scottish Ministers or a Scottish public authority to publish, or to publish and lay before the Scottish Parliament, a report (and any other associated documents) in connection with the exercise of their or its functions on or by a particular date while this paragraph is in force.
- (2) The Scottish Ministers or the Scottish public authority may decide to postpone complying with the duty if they or, as the case may be, it are of the view that complying would be likely to impede their or, as the case may be, its ability to take effective action to prevent, protect against, delay or otherwise control the incidence or transmission of coronavirus.
- (3) Where the Scottish Ministers decide or, as the case may be, a Scottish public authority decides to postpone complying with the duty they or it must publish a statement to that effect in such manner as they consider or it considers appropriate—
- (a) on or before the date by which the report is due, or
 - (b) as soon as reasonably practicable after the date.
- (4) A statement published under sub-paragraph (3) must indicate that the report will be published in accordance with paragraph 10(2).
- (5) This paragraph does not apply to—
- (a) a duty contained in this Act,
 - (b) accounts or associated documents required under section 19 or 20 of the Public Finance and Accountability (Scotland) Act 2000 (see paragraph 15),
 - (c) any other document in respect of which there is a statutory duty to publish or publicise it, lay it before the Scottish Parliament or otherwise make it available (see paragraph 9).

Power to publish or make available documents for inspection electronically

- 9 (1) This paragraph applies to a statutory duty (however expressed)—

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- (a) that is within the legislative competence of the Scottish Parliament to amend, and
 - (b) that requires the Scottish Ministers or a Scottish public authority to—
 - (i) publish or publicise a document (other than by electronic means),
 - (ii) lay a document (or a copy of it) before the Scottish Parliament,
 - (iii) give notice of where a document may be inspected,
 - (iv) make available a document for inspection in a particular manner.
- (2) The Scottish Ministers or, as the case may be, the Scottish public authority may decide not to comply with the duty if they or, as the case may be, it are of the view that doing so—
- (a) may give rise to a significant risk of the transmission of coronavirus, or
 - (b) is likely to be ineffective or inappropriate due to action taken in order to control the incidence or transmission of coronavirus.
- (3) Where the Scottish Ministers or, as the case may be, a Scottish public authority decide not to comply with the duty they or it must (if possible)—
- (a) publish the document in such electronic format as they consider or it considers appropriate (for example on their or its website),
 - (b) make the document (or the information contained in it) available for inspection by electronic means (for example on their or its website),
 - (c) give notice by electronic means of where a document (or the information contained in it) may be inspected, which notice may specify an electronic means (such as publication on a particular website) as the place where the document (or information) may be inspected,
- as appropriate, having regard to the nature of the duty in question.
- (4) If the Scottish Ministers or, as the case may be, a Scottish public authority decide not to comply with the duty and consider that it is not possible to use a means listed in sub-paragraph (3), they or it must publish a statement to that effect in such manner as they consider or it considers appropriate.
- (5) Where the duty is accompanied by a requirement that the Scottish Ministers or, as the case may be, a Scottish public authority must make a statement to the Scottish Parliament in respect of the document on a particular date or within a particular period, it is sufficient for the statement to be made as soon as reasonably practicable.
- (6) This paragraph does not apply to—
- (a) accounts or associated documents required under section 19 or 20 of the Public Finance and Accountability (Scotland) Act 2000 (see paragraph 15), or
 - (b) reports required in connection with the exercise of functions by the Scottish Ministers or a Scottish public authority and in respect of which there is a statutory duty to publish or lay before the Scottish Parliament (see paragraph 8).

Resumption of duties in relation to reports and documents

- 10 (1) Sub-paragraph (2) applies where the Scottish Ministers or, as the case may be, a Scottish public authority have made a decision under paragraph 8(2) to postpone complying with a duty.

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- (2) The Scottish Ministers or, as the case may be, the Scottish public authority must comply with the duty as soon as reasonably practicable.
- (3) Sub-paragraph (4) applies where—
 - (a) the Scottish Ministers or, as the case may be, a Scottish public authority made a decision under paragraph 9(2) not to comply with a duty, and
 - (b) they consider or it considers that there is no longer a significant risk of the transmission of coronavirus.
- (4) The Scottish Ministers or, as the case may be, the Scottish public authority must—
 - (a) in a case where the duty is to lay a document before the Scottish Parliament, comply with the duty as soon as reasonably practicable,
 - (b) in any other case—
 - (i) take such steps as they consider or it considers necessary to comply with the duty, or
 - (ii) publish a statement indicating that they are or it is not complying and setting out the reasons for not doing so (such as having done so by electronic means).

PART 4

LOCAL AUTHORITY MEETINGS

Introductory

- 11 This Part contains temporary modifications of the Local Government (Scotland) Act 1973 in relation to—
- (a) the grounds for the exclusion of the public from meetings of local authorities,
 - (b) the provision of copies of documents in respect of meetings of local authorities.

Interpretation

- 12 In this Part (other than this paragraph)—
- (a) references to sections are to sections of the Local Government (Scotland) Act 1973 (“the 1973 Act”), and
 - (b) expressions used in this Part and in that Act have the same meaning as in that Act.

Grounds for exclusion of the public from meetings of local authorities

- 13 (1) Section 50A (admission to meetings of local authorities) applies in accordance with the modifications in this paragraph.
- (2) Subsection (1) has effect as if, after “(2)”, there were inserted “or (3A)”.
- (3) The section has effect as if, after subsection (3), there were inserted—
- “(3A) The public are to be excluded from a meeting of a local authority whenever it is likely that, if members of the public were present, there would be a real

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and substantial risk to public health due to infection or contamination with coronavirus.

(3B) In subsection (3A), “coronavirus” has the meaning given by section 1 of the Coronavirus (Scotland) Act 2020.”.

Photographic copies of documents in respect of meetings of local authorities

- 14 Section 50H(2)(b) (supplemental provisions and offences) has effect as if modified so that after “extracts from the document” there were inserted “if reasonably practicable”.

PART 5

DUTIES UNDER THE PUBLIC FINANCE AND ACCOUNTABILITY (SCOTLAND) ACT 2000

- 15 (1) The Scottish Ministers may by regulations make provision modifying the effect of the Public Finance and Accountability (Scotland) Act 2000 as it applies to accounts that are required under section 19 or 20 of that Act for the financial year ending with 31 March 2021.
- (2) In particular, the regulations may make provision about—
- (a) the timescales in which accounts must be provided,
 - (b) the provision of information and documents by electronic means,
 - (c) the manner in which accounts and any other relevant documents are to be published.
- (3) The Scottish Ministers may by regulations provide that regulations made under sub-paragraph (1) are to apply (with or without modification) to the financial year ending with 31 March 2022.
- (4) Before making regulations under this paragraph, the Scottish Ministers must consult the Auditor General for Scotland.
- (5) Regulations under this paragraph—
- (a) must be laid before the Scottish Parliament as soon as practicable after they are made, and
 - (b) 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, 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 sub-paragraph (5)(b), that does not—
- (a) affect anything previously done under the regulations,
 - (b) prevent the making of new regulations.