



Law Society
of Scotland

Written evidence

Covid-19 legislation: next steps in 2021

February 2021



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

We welcome the opportunity to respond to the Scottish Parliament's COVID-19 Committee's call for evidence on *Covid-19 legislation: next steps in 2021*¹.

We have previously provided briefings on the Coronavirus (Scotland) Bill² and Coronavirus (Scotland) (No.2) Bill³ and written evidence to the COVID-19 Committee on earlier inquiries⁴.

General comments

The Coronavirus legislative framework

The Coronavirus legislation applicable in Scotland is contained in:

- (i) the relevant parts of the UK primary legislation in the Coronavirus Act 2020⁵. This Act contains 102 sections and 29 schedules and was considered at pace in Parliament.
- (ii) The Coronavirus (Scotland) Act 2020⁶ which was the principal relevant Scottish legislation, contains many provisions of importance to life in Scotland, including law relating to children and vulnerable adults, justice matters, public bodies, and a number of other areas. That Act contains provisions requiring Scottish Ministers to report on the “necessity” of such legislation rather than, as in England and Wales, the “appropriateness” of the status of the legislation.
- (iii) The Coronavirus (Scotland) (No 2) Act 2020⁷. The Act ensured public services operated during the coronavirus pandemic and supported businesses and individuals. The Act included provisions to ensure business and public services can operate, change public service duties, provide protections for student tenants and support for carers, and made changes to criminal procedure. It also allowed

¹ <https://yourviews.parliament.scot/covid19/coronavirus-acts-feb-2021/>

² <https://www.lawsco.org.uk/research-and-policy/influencing-the-law-and-policy/our-input-to-parliamentary-bills/bills-201920/coronavirus-scotland-bill/>

³ <https://www.lawsco.org.uk/research-and-policy/influencing-the-law-and-policy/our-input-to-parliamentary-bills/bills-201920/coronavirus-scotland-no-2-bill/>

⁴ https://www.parliament.scot/The_Law_Society_of_Scotland.pdf, https://www.parliament.scot/The_Law_Society_of_Scotland2.pdf, <https://www.parliament.scot/CVD.S5.EER.17.pdf>

⁵ <https://www.legislation.gov.uk/ukpga/2020/7/contents/enacted>

⁶ <https://www.legislation.gov.uk/asp/2020/7/contents>

⁷ <https://www.legislation.gov.uk/asp/2020/10/contents/enacted>

Scottish notaries public to execute notarial documents by video technology ensuring that clients could transact business without exposure to the virus.

These pieces of legislation contain a number of safeguards, including that the legislation can be extended until 30 September 2021. Scottish Ministers have reviewed and reported on the measures every 2 months⁸. Scottish Ministers must also review all coronavirus related Scottish Statutory Instruments under section 14 of the (No 2) Act.

Our 4 Broad themes

We considered a number of broad themes which set the context for our comments on Coronavirus legislation applicable in Scotland and the wider UK. They are Parliamentary scrutiny and the rule of law, respect for human rights, devolution, and other public health legislation.

A. Parliamentary Scrutiny and Rule of Law

Common provisions of Coronavirus legislation fall within two broad categories:

- (i) Broad regulation making powers to suspend, modify or grant indemnity from existing statutory laws or common law and powers to suspend or revive other provisions of the legislation including to amend provisions of the Acts themselves (e.g. section 88 in the Coronavirus Act 2020, section 11 in the Coronavirus (Scotland) Act 2020 and section 14 in the Coronavirus (Scotland) (No2) Act 2020.
- (ii) Those which confer new powers in order to deal with the coronavirus pandemic.

Parliamentary scrutiny of the Coronavirus legislation was limited. It had all its stages – Second Reading, Committee, and Third Reading – in the House of Commons on 23 March 2020, all its stages in the House of Lords over 24 and 25 March and became law on 25 March 2020. Similarly, the Coronavirus (Scotland) Act 2020 passed all its stages in the Scottish Parliament on 1 April 2020. The Coronavirus (Scotland) (No 2) Act 2020 was introduced on 11 May 2020 and became law on 26 May and accordingly received more scrutiny than the earlier legislation.

In other circumstances when legislation has passed through the Parliament, we have highlighted the need to scrutinise the legislation carefully and not to sacrifice that scrutiny for speed. However, the nature of Covid-19 and the serious and imminent threat it posed to the community at large proved to be so devastating that it was right that the Parliament's response matched the level of threat.

As circumstances have changed it will be important that where future law is contemplated, there will be adequate pre-legislative consultation, proper Parliamentary scrutiny, and effective post legislative review. It is also essential that any future legislation and subsequent guidance is explained to the public in clear, unambiguous terms so as to avoid confusion about their effect. This objective reflects the approach taken in The Coronavirus: Action Plan (AP) which was published on 3 March 2020 by the UK Department of Health and Social Care, the Scottish Government, the Department of Health for Northern Ireland and the Welsh

⁸ <https://www.gov.scot/publications/coronavirus-acts-two-monthly-report-scottish-parliament/>

Government. The AP recognised the respective roles and responsibilities of the UK Government and Devolved Administrations and set out information about the disease, actions taken so far by the Administrations, what was being planned and the role of the public in supporting the response to the virus. Revisiting such cooperative work may assist in further controlling the virus, helping people to comply with the law and assisting in the work of recovery.

B. Respect for Human Rights

We welcomed the publication along with the UK Coronavirus Bill of the Human Rights Memorandum from the Department for Health and Social Care which dealt comprehensively with European Convention on Human Rights (ECHR) compliance. Similar respect for human rights was shown in the Explanatory Memorandums which accompanied the Scottish Bills. Where the legislation engages the ECHR, the rights engaged were qualified, not absolute and their exercise needed to be balanced with the wider interests of public safety and the protection of individual and community health.

The Human Rights Act 1998 applies to the acts of public authorities under the Acts and we encourage public authorities which undertake coronavirus functions to ensure compliance with Convention rights. We expect that human rights and the rule of law will be fully respected when applying the provisions of the Coronavirus legislation. We have highlighted throughout this process those provisions which we have considered may have breached human rights. It is crucially important, especially in times of pandemic emergency which impact on the rights and freedoms of all citizens, that the law is applied equally and that the human rights of all are respected.

C. Devolution

The Coronavirus Act 2020 respected the devolution arrangements and the Legislative Consent convention, recognised in the Scotland Act 1998 Section 28(8), that the UK Parliament will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament without the consent of the Parliament. Many of the matters to which the Coronavirus Act 2020 relates are within the legislative competence of the Scottish Parliament or affect the executive competence of the Scottish Ministers. The Scottish Parliament agreed the Legislative Consent Motion on Tuesday, 24 March 2020.

D. Public Health legislation

We recommend a review of the law relating to health emergencies. Legislation already exists to deal with circumstances related to pandemic disease:

- (i) The Civil Contingencies Act 2004 can apply to emergencies and creates a framework for civil protection in the UK. The Act provides for local arrangements for civil protection and the employment of emergency powers under Orders in Council. The emergency powers in the Act allow for temporary regulations to deal with serious emergencies. Emergency powers under the Act are subject to rigorous safeguards and can only be used in exceptional circumstances.
- (ii) The Public Health (Control of Disease) Act 1984 (amended by the Health and Social Care Act 2008) as respects England and Wales and the Public Health (Scotland) Act 2008 include quarantine, detention and medical examination, and other powers, for local authorities and Health Boards.

The preference of Government to employ either the Coronavirus specific legislation or Public Health Acts rather than Civil Contingencies legislation raises questions about the legislative framework which applies across the UK and its fitness to deal with future public health crises. Once there is sufficient scope for a parliamentary inquiry into the fitness of the legislative (and policy) framework we can envisage this being a priority for all UK Administrations and Legislatures.

In this connection we recommend that the Four Governments consider collaboration on the creation of a Standing Advisory Committee on Pandemics which, under an independent Chair would comprise medical, scientific, educational, research, and other experts drawn from the Four Nations and Ministerial Members from the Four Governments to keep under review developments in virology and epidemiology, oversee preparation for viral events including supply chains, stockpiling of medicines, development of vaccines, medical equipment and PPE, training of medical and nursing staff and preparation of educational tools to inform the public and general preparedness for future pandemics.

We also suggested a quadripartite parliamentary group, bringing together all the UK legislatures to share experience, best practice and knowledge about legislating in the pandemic, using as a model the Inter-Parliamentary Group formed to consider Brexit.

Subordinate legislation concerning Coronavirus

There is a considerable amount of Coronavirus subordinate legislation across the UK: 302 UK statutory instruments (regulations), 132 Scottish Statutory Instruments, 164 Northern Irish Statutory Rules and 122 Welsh Statutory Instruments at the time of writing. With so much subordinate legislation (and the potential for more) covering so many areas of the law, it is difficult for legislators, advisers, and those subject to the regulations to be clear about the law which applies. It would be helpful if a consolidated version of the regulations could be made available.

Response

Should Part 1 of the Coronavirus (Scotland) Acts be extended to September 2021?

We have the following comments in respect of specific provisions of the Acts:

Coronavirus (Scotland) Act 2020, section 3 and schedule 2 (Temporary extension of moratoriums on diligence) and Coronavirus (Scotland) (No.2) Act 2020, section 2 and schedule 1, part 5 (Bankruptcy)

In the current circumstances we consider that extending the provisions in Part 1 of the Coronavirus (Scotland) Acts, regarding protection for debtors and bankruptcy, until September 2021 is sensible. The measures have worked relatively well, and it may be helpful to consider retaining some of them on a permanent basis. However, this should be done through the normal legislative process, with time dedicated to stakeholder engagement and parliamentary scrutiny. See further our comments in response to the final question.

Coronavirus (Scotland) Act 2020, section 4 and schedule 3, part 2 (Vulnerable Adults)

We appreciate that the relevant Acts cannot be extended in part, and that provisions which are no longer required should be expired by separate Regulations. Schedule 3, part 2, para 11(1) has previously been expired. We would suggest that the provisions contained in schedule 3, part 2, para 11(2) and 11(3) (the so-called “stop the clock” provisions) are no-longer required and should also now be expired.

These provisions have the effect of ‘stopping the clock running’ on guardianship orders and section 47 certificates under the Adults with Incapacity (Scotland) Act 2000, meaning that they will not expire and that the powers they contain will continue to have effect whilst the provisions are in force. These provisions were in force from 7 April 2020 – 30 September 2020 and have been suspended since 30 September 2020 by virtue of The Coronavirus (Scotland) Act 2020 (Suspension: Adults with Incapacity) Regulations 2020.

When these provisions were activated, the courts had very limited capacity to process AWI cases and it was extremely challenging for solicitors to obtain the necessary reports for AWI applications. We understand that the courts, the Office of the Public Guardian, and relevant medical and other practitioners have now been able to adapt their processes, and the circumstances which necessitated the original introduction of “stop-the-clock” provisions would not be replicated. Further, and in light of experience following the suspension of the “stop the clock” provisions in September 2020, we would suggest that any further use of these provisions would cause considerable practical difficulty for solicitors and other professionals involved in the AWI process, would increase confusion and uncertainty for adults with incapacity and their families, and would only defer pressures on resources within the system until such time as the clock were to restart. We would suggest that this would be counter-productive, and in any event would be unnecessary and undesirable.

We have previously highlighted our concerns regarding the impact of these provisions on orders granted subject to short time limits in order to comply with Article 5 ECHR (right to liberty and security of person). We do not consider that further use of these provision to restrict the rights of adults subject to interventions under the 2000 Act is justified, and we do not consider that the provisions contain sufficient human rights safeguards in this regard.

Coronavirus (Scotland) Act 2020, section 5 and schedule 4

The required continuation of the extension of the time limits in Part 4 of Schedule 4 is inevitable as there has been a significant impact on the criminal justice system through the continued lockdowns. This has seen a greatly reduced amount of business transacted in the courts. This has meant that there is a backlog of cases which needs to be resolved. Jury trials involving the most serious cases have been taking place in the High Court since July 2020 and there has been a gradual roll out of sheriff and jury trials across the country in recent months. It will take time to recover and also to start to see volumes of cases concluded increase.

This has a consequence as those accused awaiting trial who are remanded are required to spend longer in custody on remand. The Scottish Government Justice Analytical Services Coronavirus (COVID-19) Data

Report published as at December 2020⁹ indicated that “the number of people held on remand remains at a historic high level” though it had fallen slightly over December 2020.” Figures to note are:

- 1,979 were on remand: 1,755 (24%) untried & 224 (3%) awaiting sentence
- 69% of arrivals in December were untried (678 of 976), and 13% awaiting sentence

Added to these issues are the public safety requirements which mean visits from family members and other access are restricted as prisons have had to lockdown in order to respond to the virus too.

While the concerns over the time extensions are not necessarily identified as a mental health issue, the resulting delays are impacting on mentally disordered offenders, particularly where treatment or conditional discharge is dependent on the outcome of criminal proceedings. We are not aware of any mechanism to allow exceptions to time bar extensions in any circumstances.

Coronavirus (Scotland) Act 2020, section 8 and schedule 7

Paragraphs 6 – 7 (Irritancy clauses in commercial leases)

In relation to the irritancy provisions in the Coronavirus (Scotland) Act 2020, Schedule 7, paragraphs 6 and 7, it appears appropriate that these be extended. Without extending these powers, the period to be provided in a pre-irritancy notice would reduce overnight from 14 weeks to 14 days unless a longer period was stated in the lease.

We suggest that consideration be given as to the operation of these provisions in the longer term, i.e. beyond September 2021 if the provisions are indeed extended for now. This would merit consultation as to the appropriate approach. The 2020 Act provides for the Scottish Ministers to reduce the 14-week period, but these powers will fall away with the provisions of the Coronavirus (Scotland) Act 2020. It may be appropriate to taper the reduction in the period of 14 weeks following expiry of the 2020 Act. This could be achieved by way of similar powers to those contained in the current (temporary) section 4(3A) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985.

Paragraphs 11 to 19 (Electronic delivery of copy of deed to Registers of Scotland and Land registration)

In relation to the provisions of the Coronavirus (Scotland) Act 2020, Schedule 7, paragraphs 11 to 19, we support the extension of these powers which concern electronic delivery of copy deeds to Registers of Scotland and land registration. These provisions have enabled property transactions to continue throughout the period of the pandemic. Registers of Scotland is currently consulting on digital submissions services for the future¹⁰.

⁹ <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2021/01/coronavirus-covid-19-justice-analytical-services-data-report-december-2020/documents/justice-analytical-services-coronavirus-covid-19-data-report-december-2020/justice-analytical-services-coronavirus-covid-19-data-report-december-2020/govscot%3Adocument/justice-analytical-services-coronavirus-covid-19-data-report-december-2020.pdf?forceDownload=true>

¹⁰ <https://www.ros.gov.uk/about/publications/consultations-and-surveys/2020/digital-submissions-2020/consultation-paper>

Coronavirus (Scotland) (No. 2) Act 2020, section 2 and schedule 1, part 6 (named person nominations)

Section 2 and schedule 1, part 6 of the Coronavirus (Scotland) (No.2) Act 2020 make temporary modifications to the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 which relate to named persons and are currently in force.

This temporary modification is important, necessary, and proportionate, and continues to be needed whilst face-to-face meetings are restricted.

Coronavirus (Scotland) (No 2) Act 2020, section 5 and schedule 4, part 7 (Execution of documents)

We continue to believe that the Coronavirus (Scotland) (No 2) Act 2020, schedule 4, part 7 is a provision which is of benefit to people in Scotland who require the services of a notary. We also consider that were this provision to expire that could have an adverse impact on those who need notarial services in terms of risk of exposure to COVID-19, anxiety, cost and delay.

During January 2021 the Society conducted a survey of Notaries Public. A total of 567 responses were received, more than 80% of which were from our members who have acted as a notary during the pandemic. All but 12 of those were able to successfully authenticate the execution of documents either using video call (43%), physical distancing (16%) or a combination of the two (38%).

Are sufficient equality and human rights safeguards in place to extend the powers?

The unequal impact on various groups of Covid-19 and the provisions adopted to combat the virus within Scotland would suggest that the safeguards have not been sufficient to date. *Scotland's Wellbeing: The Impact of Covid-19 Report*¹¹ published jointly by the Scottish Government and the Convention of Scottish Local Authorities (COSLA), confirmed that people already suffering disadvantage have been the hardest hit. One of its main findings was that the pandemic is impacting disproportionately on people in poverty, low-paid workers, children and young people, older people, disabled people, minority ethnic groups and women. In particular the Report noted that research among disabled people in Scotland who were shielding during the lockdown reported a range of concerns including lack of access to the support they needed, difficulties accessing food and medicine, concern about the loss of healthcare appointments and treatments, mental health impacts due to isolation from friends and family, and worries about coming out of lockdown¹².

As highlighted above, we have considerable concerns in relation to equality and human rights aspects of the powers in connection with delays in running criminal justice trials. This has implications for accused persons, particularly those remanded in custody, but also for victims and witnesses who do not know when their cases may be called. That adds to the stress for all concerned who do want matters resolved timeously.

It is vital that the interests of justice and the rule of law are served in having an effective justice system operating. Some of the most vulnerable in our society are worst impacted as they may not be able to

¹¹ <https://nationalperformance.gov.scot/scotlands-wellbeing-impact-covid-19>

¹² <https://nationalperformance.gov.scot/scotlands-wellbeing-impact-covid-19> at page 69

participate so effectively where required by remote access or other use of technology to allow cases to be heard and resolved.

What impact might the pre-election recess period have on the governance and scrutiny of Scotland's Covid-19 response? How can this be addressed?

There has been a lack of scope for scrutiny of the plethora of secondary legislation that has been required. Though measures have been required to protect public health, these changes to the law have been announced at press conferences, and regulations have been drafted quickly and published, and then amended. The practice of using emergency secondary legislation should be reduced as the measures to deal with the pandemic, including vaccination, go forward.

We also note the importance of maintaining robust scrutiny of all legislation. Given the time that has required to be spent on dealing with the pandemic, this has meant inevitably the time spent on other parliamentary bills has been reduced.

What can be done to support the public to understand and comply with the public health restrictions in 2021?

The restrictions on public life as a result of the current pandemic have been profound. There have been 132 separate Scottish Statutory Instruments dealing with coronavirus issues since the current crisis commenced, 22 of these since the start of the year. To date, there have been 25 regulations amending the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020. The volume of legislation required may be necessary to protect public health in a developing and global pandemic, though there is a concern that the pace of change may leave people unsure as to what restrictions are currently in place, and with a risk of criminal sanction for failing to meet these requirements. Criminal law requires clarity so that those breaching the rules are aware of the consequences of their actions which can include criminal convictions that may affect future travel and employment prospects. The Scottish Government has updated guidance throughout the crisis, and Police Scotland has a stated approach of encouragement before enforcement.

It is important to highlight the risk to the rule of law from these measures. One of the fundamental requirements of this principle is that the law must be accessible and, so far as possible, be intelligible, clear, and predictable. Ensuring that guidance or public statements to the public accurately reflect the legislation and regulations that underpin these public health measures is important, as is communication to the public through as many channels as possible. There may be broader opportunity to use the Protect Scotland app, which over a million people in Scotland have downloaded, to provide more information (for instance, the app advises that a region in tier 4 lockdown, provides no detail on what is permitted or prohibited in that tier, but a link to the details for the national lockdown requirements).

We have previously highlighted that we consider it important for the public to be able to understand how areas of guidance are evolving and for references to outdated guidance to be removed. Where guidance has been published in response to coronavirus, it is important that it is made clear whether this guidance

replaces or supplements any existing guidance. Where coronavirus guidance is intended to supplement existing guidance, there should be clear cross-referencing to ensure that those using such guidance are able to understand it in the context of all current operational guidance including pre-pandemic guidance.

There is a need for careful public messaging in order not to generate fear but to promote co-operation. It is important to be aware of the impact of such messaging on those that may be more vulnerable. It is important that guidance is accessible to all in Scotland, particularly where a failure to comply can result in breaching regulations and criminal sanctions. This means that it should be readily available in different formats, languages, be clear and use easily understood terminology. The overall aim should include ensuring that where guidance is relevant to anyone in any of the categories of disabilities (physical, sensory, mental or intellectual) it reaches them, in such forms and/or with such support as may be necessary to enable them to understand and comply.

What priorities should inform the Scottish Government's strategy and response to Covid-19 in 2021?

As noted above, there has been inequality in the impact of Covid-19. Addressing this should be a priority for the Scottish Government strategy and response in 2021.

Since the start of the pandemic, there have been rapid developments in treatment, testing, vaccination and in the public health response to Covid-19. It is important, however, that such rapid development continues to comply with established legal principles such as informed consent to treatment (including vaccination) and existing regulatory safeguards. It is also important that equality and human rights protections within healthcare are not eroded, and indeed continue to be central to the Covid-19 response. The pandemic has highlighted the fragility of equal access in healthcare and addressing this should be one of the priorities informing the Scottish Government's strategy and response to COVID-19 in 2021.

For the justice system, the move towards remote hearings has been a necessary response to the current crisis. It has not been without challenges for practitioners, for accused, victims and witnesses in criminal cases, for parties in civil cases and for the range of other participants in these cases, from interpreters to expert witnesses. The court system had been progressing a programme of technology adoption before the current crisis, which has accelerated significantly because of the current crisis. It is crucial that there is the opportunity to review this paradigm change and, in particular, to focus on effective participation, and the needs of all court users including those who make up the most vulnerable, such as those with protected characteristics.

There is a need to open up society again and to keep it open if it is safe to do so, returning to a tiered system of measures if necessary. In the context of criminal justice, there needs to be a recognition of the need to address the backlogs in trials, to find ways to deal with more cases remotely respecting the need for a fair trial and the rule of law, and only bring the accused to court when necessary.

If a similar emergency happens again, what powers should be re-used? What powers should be modified?

Public health legislation

As referred to above, we recommend a review of the law relating to health emergencies. Please see our detailed comments on this above.

Coronavirus (Scotland) Act 2020, section 3 and schedule 2 (Temporary extension of moratoriums on diligence) and Coronavirus (Scotland) (No.2) Act 2020, section 2 and schedule 1, part 5 (Bankruptcy)

It may be that permanent extension of the moratorium period on diligence (in Part 15 of the Bankruptcy (Scotland) Act 1985) from the “normal” period of 6 weeks is reasonable. An extended period of 6 months for the moratorium is justifiable in the context of an emergency situation but would be too long to retain more generally. If a fair balance is to be struck between protecting the debtor and supporting the rights of creditors to enforce after a reasonable period of time, then perhaps 12 weeks would be appropriate. This could be extended to 6 months if there was a further emergency.

We also note that the changes to allow for electronic service of documents, electronic signatures and virtual meetings of creditors seem sensible and better reflect modern forms of communication and behaviour. They also make the relevant acts and processes easier and more efficient. If the changes were to be made permanent, the need for further legislation on these matters in an emergency context could also be avoided.

We also support increasing the maximum debt level in the minimal asset process (MAP) from £17,000 to £25,000 on a permanent basis. However, we are not advocating permanently increasing the required debt level for a creditor (or creditors) to become a “qualified creditor” (or “qualified creditors”) and thereby enabling them to petition for a debtor’s sequestration, especially if the increase were to be a large one.

We do not object to the temporary changes regarding fees for debtor bankruptcy applications being made permanent.

We are aware that some of these changes are due to be given permanent effect via the Bankruptcy (Miscellaneous Amendments) (Scotland) Regulations 2021¹³.

Coronavirus (Scotland) Act 2020, section 4 and schedule 3, part 2 (Vulnerable Adults)

Paragraph 11(1) relates to adults deemed to be incapable of making decisions about provision of community care services. It modifies section 13ZA of the Social Work (Scotland) Act 1968 to remove the requirement on the local authority to consult the adult and interested parties, including those authorised under a guardianship or power of attorney, when making such decisions. This provision has not been commenced and has since been expired by The Coronavirus (Scotland) Acts (Early Expiry of Provisions) Regulations 2020. We consider that these provisions represent a serious and unnecessary violations of fundamental human rights. Accordingly, in the case of similar emergency, they should not be re-used.

¹³ <https://www.legislation.gov.uk/sdsi/2021/9780111049099/contents>

Paragraphs 11(2) and 11(3) (the so-called “stop the clock” provisions) may have been necessitated by the sudden impact of the pandemic on the courts and other involved in the AWI process, however given the significant efforts to adapt to new ways of working we would suggest that in the case of a similar future emergency, these provisions would not be required.

Coronavirus (Scotland) (No. 2) Act 2020, section 2 and schedule 1, part 6 (named person nominations)

In the case of a similar future emergency which placed restrictions on face-to-face meetings, we would suggest that this provision could be re-used.

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