



Law Society  
of Scotland

# Stage 1 briefing

## Coronavirus (Extension and Expiry) (Scotland) Bill

21 June 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.

Our Public Policy committee and its sub-committees have considered the provisions of the Coronavirus (Extension and Expiry) (Scotland) Bill,<sup>1</sup> and have the following comments to put forward for consideration.

## 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 2020 (CA)<sup>2</sup>. This Act contains 102 sections and 29 schedules and was considered at pace in Parliament.
- (ii) The Coronavirus (Scotland) Act 2020 (CSA)<sup>3</sup> which was the principal 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 2020 (CSA2)<sup>4</sup> 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 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 two

<sup>1</sup> <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/coronavirus-extension-and-expiry-scotland-bill/introduced/bill-as-introduced.pdf>

<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2020/7/contents/enacted>

<sup>3</sup> <https://www.legislation.gov.uk/asp/2020/7/contents>

<sup>4</sup> <https://www.legislation.gov.uk/asp/2020/10/contents/enacted>

months<sup>5</sup>. Scottish Ministers must also review all coronavirus related Scottish Statutory Instruments under section 14 of the (No 2) Act.

### **Our four 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 CA, section 11 in the CSA and section 14 in the CSA2).
- (ii) Those which confer new powers in order to deal with the coronavirus pandemic.

Parliamentary scrutiny of the Coronavirus Act 2020 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 CSA passed all its stages in the Scottish Parliament on 1 April 2020. The CSA2 was introduced on 11 May 2020 and became law on 26 May and accordingly received more scrutiny than the earlier legislation.

The Coronavirus (Extension and Expiry) (Scotland) Bill was published on 18 June and will be debated in the Scottish Parliament over the period 22-24 June. Although short in terms of parliamentary time the provisions are relatively straightforward. The principle of extension has been considered by the Parliament over the past year in the context of the motions to extend to the present day and the regular reports by Scottish Ministers.

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 which takes into account case law such as *Reverend Dr William JU Philip and others v Scottish Ministers* [2021] CSOH 32, where the Lord Ordinary in the Court of Session held that regulations closing churches for worship were beyond the devolved competence of Scottish Ministers, 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

<sup>5</sup> <https://www.gov.scot/publications/coronavirus-acts-two-monthly-report-scottish-parliament/>

Scottish Government, the Department of Health for Northern Ireland and the Welsh 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 the AP 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 (see the reference to *Reverend Dr William JU Philip and others v Scottish Ministers* above). 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 latter. 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 the Administrations and Legislatures across the UK.

In this connection, we suggested 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. This body would 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: 357 UK statutory instruments (regulations), 175 Scottish Statutory Instruments, 216 Northern Irish Statutory Rules and 152 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 the regulations could be consolidated on a regular basis.

### **Other comments**

We welcome the introduction of the Coronavirus (Extension and Expiry) (Scotland) Bill which takes a proportionate view as to which aspects of the legislation should be extended or expired. This is appropriate given the current infection levels and the emergence of new variants. We comment in greater detail on the provisions of the bill in the annex to this paper.

## Annex A: Comments on the Bill

---

### Section 1 - Extension of provisions

Section 1 concerns the extension of provisions of both the Scottish Coronavirus laws. It amends both statutes so they expire on 31 March 2022 and provides Scottish Ministers with regulation making powers to extend the Acts to 30 September 2022. Section 1 will give effect to the Scottish Government's policy aims regarding extension of the Coronavirus Acts.

In detail, Section 1(2) and (3) amend the CSA section 12.

Subsection (2) amends the date of the expiry of the provisions in Part 1 of the CSA from 30 September 2021 to 31 March 2022.

Subsection (3) deletes sections 12(3) and (4) of the CSA and inserts a new subsection (3) which gives Scottish Ministers a power to make regulations to extend the date of expiry on of Part 1 of the CSA from 31 March 2022 to 30 September 2022.

Section 1(5) and (6) amend the Coronavirus (Scotland) (No.2) Act 2020 (CSA2) section 9.

Subsection (5) amends the date of the expiry of the provisions in Part 1 of the CSA2 from 30 September 2021 to 31 March 2022.

Subsection (6) deletes section 9(3) and (4) of the CSA2 and inserts a new subsection (3) which gives Scottish Ministers a power to make regulations to extend the date of expiry on of Part 1 of the CSA2 from 31 March 2022 to 30 September 2022.

### Section 2 - Expiry of provisions

Section 2(1) provides that certain provisions of the CSA - contained in section 2(2) to (6) - expire on 30 September 2021. See our comments in Annex B on the specific provisions.

Section 2 (7) provides that certain provisions of the CSA2 expire on 30 September 2021.

Section 2(8) and (9) provides that Scottish Ministers can use powers in section 13(1) of the CSA and section 10(1) of the CSA2 to bring forward the expiry of any of the provisions to be expired by sections 2(2) to (7).

Section 2 will give effect to the Scottish Government's policy aims regarding expiry of parts of the Coronavirus Acts.

### **Section 3 - Minor and consequential provisions**

Section 3 makes amendments to both the CSA and the CSA2 which are consequential on section 2. Section 3 also revokes 4 sets of superseded regulations and repeals two spent provisions in the CSA2 which contained amendments to the freedom of information provisions in the CSA.

### **Section 4 - Transitional and saving provisions**

We have no comments to make.

### **Section 5 - Power to make provisions in connection with expiry**

We have no comments to make.

### **Section 6 - Commencement**

We have no comments to make.

### **Section 7 - Short title**

We have no comments to make.

## **Annex B: Measures deriving from the Coronavirus (Scotland) Act 2020**

---

### **Section 2 and schedule 1 – Eviction from dwelling-houses**

The CSA Section 2 and schedule 1 temporarily extended the notice periods for all evictions, except in certain cases. The provisions were extended by The Coronavirus (Scotland) Act 2020 (Eviction from Dwelling-houses) (Notice Periods) Modification Regulations 2020<sup>6</sup>. The provisions also made temporary changes to private rented sector repossession cases going before the First-Tier Tribunal (Housing and Property Chamber), by enabling the Tribunal to apply discretion to take into account the full circumstances of a case.

The provisions have helped to provide certainty to tenants in the current circumstances, where they may be struggling to pay their rent. We previously highlighted that it is important that the interests of landlords and tenants are appropriately balanced. Furthermore, it remains important for landlords to have sufficient financial support to allow for them to meet or suspend their own liabilities, for example, in circumstances where they rely on rental income which is not being paid by a tenant.

In light of the ongoing circumstances, we consider it appropriate that these provisions are extended by this Bill.

### **Section 3 and schedule 2 - Temporary extension of moratoria on diligence and Coronavirus (Scotland) (No.2) Act 2020 Section 2, schedule 1, Part 5 – Bankruptcy**

In the current circumstances, we consider that extending the provisions of the CSA section 3 and schedule 2 (with the exception of paragraphs 2 and 3 which are to be expired by the Bill), and the Coronavirus (Scotland) (No. 2) Act 2020 section 2 and schedule 1, paragraphs 8 – 14, all of which concern protection for debtors and bankruptcy, is appropriate.

The measures have worked relatively well, and it may be helpful to consider retaining some of them on a permanent basis. We note that some of the original changes have already been made permanent by the Bankruptcy (Miscellaneous Amendments) (Scotland) Regulations 2021. In terms of further permanent changes, this should be done through the normal legislative process, with time dedicated to stakeholder engagement and parliamentary scrutiny.

It may be that permanent extension of the moratorium period on diligence (in Part 15 of the Bankruptcy (Scotland) Act 2016) 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 we consider would be too long to

<sup>6</sup> SSI 2020/270

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. Even though the Coronavirus (Extension and Expiry) (Scotland) Bill provides for the further extension and ultimate expiry of temporary rules extending the moratorium on diligence, it may be sensible to give further consideration to a short permanent extension of the moratorium in the near future.

We also note that the provisions to allow for electronic service of documents 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. It is appropriate that these provisions are extended for now. If the changes were to be made permanent, the need for further legislation on these matters in an emergency context could be avoided. We note that provision for electronic signatures has already been made permanent and we were supportive of this change. The other changes could also usefully be made permanent.

We previously expressed support for increasing the maximum debt level in the minimal asset process (MAP) from £17,000 to £25,000 on a permanent basis and note that this has now been implemented. 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 large.

## **Section 4 and schedule 3 – Children and vulnerable adults- Part 1- Children**

Section 4 and schedule 3 of the CSA contained provisions in relation to child protection, Children’s Hearings and looked after children.

These provisions have proved valuable in supporting the operation of children’s services and the children’s hearings system during the pandemic. It is appropriate, however, that emergency provisions are used only where proportionate and for only as long as required.

There may be merit in retaining some of the flexibility relating to virtual attendance at children’s hearings in the longer term, particularly where the child or relevant person is some distance away, where there are physical or mental health issues that make attendance challenging and in circumstances where there has been domestic abuse. This could be achieved by amending the rules of procedure for children’s hearings.

## **Section 4 and schedule 3 – Children and vulnerable adults – Part 2 – Vulnerable adults**

We agree 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 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 adults with incapacity (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 note that the stakeholder group established to consider evidence for continued suspension of temporary amendments to Adults with Incapacity legislation within the coronavirus legislation<sup>7</sup> met on 26 April, and unanimously agreed that the temporary provisions should expire in September 2021.<sup>8</sup>

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 EHCR (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.

## **Section 5 and schedule 4, Part 1 - Courts and tribunals: conduct of business by electronic means**

We support the continuation of these measures, as electronic communications have become vital.

The definition of electronic signature refers to the Electronic Communications Act 2000. This has been in place for 20 years and therefore is not entirely innovative although its use in criminal law is relatively limited.

<sup>7</sup> Adults with Incapacity Emergency Legislation Commencement Consideration Group. See: <https://www.gov.scot/publications/adults-with-incapacity-emergency-legislation-commencement-consideration-group-remit/>. The Law Society of Scotland is represented on this Group.

<sup>8</sup> Coronavirus Acts: seventh report to Scottish Parliament, at para 7.1.3.9. Available at: <https://www.gov.scot/publications/coronavirus-acts-seventh-report-scottish-parliament/pages/8/>

We support in general paragraphs 2 and 3 which provide for participation in hearings by electronic means. Paragraph 3(7) permits both accused persons and witnesses to participate electronically in trials, provided the appropriate direction is given by the court.

There remain practical concerns about the use of technology in proceedings such as the need for a secure and reliable data link, or HD standard or better sound and video quality, the presentation of documents and the participation of parties. We have monitored the impact of these provisions through the pandemic period, and while there is support for the use of technology for procedural hearings, there is scepticism around the use of technology for evidential hearings because of these practical challenges.

Concerns have also been expressed around the effective participation of parties to proceedings. Any accused must be able to hear understand and participate effectively in proceedings, including being able to instruct their solicitor and to give evidence. Those who are vulnerable may be worst affected. There may be implications for fairness in ensuring that effective hearings are arranged which are compounded by the ongoing court delays.

## **Section 5 and schedule 4, Part 4 - Extension of time limits**

The required continuation of the extension of the time limits in Part 4 of Schedule 4 is inevitable and appropriate 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. though over the period of the pandemic, the changing requirements for upholding public safety, criminal court work has been largely able to restart at all levels across the country from the High to JP Courts, inevitably, a substantial backlog of business has resulted. That has created an enormous task ahead for all involved in the Scottish criminal justice system. It will take time to recover and to start to see volumes of cases concluded increase.

However, continuing these measures come with significant effects on all those involved in the justice system. Against this background, we recognise that the Government's Recover, Renew, Transform (RRT) programme has been developed. It prioritises returning to pre-pandemic capacity, court levels, addressing the backlogs, seeking the resolution of cases at the earliest opportunity, embedding new ways of working and changing the outcomes for those affected by the Scottish criminal justice system. The RRT programme is supported by the Scottish Courts and Tribunal Service which announced its plans for a court recovery programme effective from September 2021. While the exact details of these additional courts are awaited, we stress that it is not about the provision and location of the necessary court estate, but about resourcing.

Significant financial investment of £50 million has been announced to address recovery. That funding is welcomed. However, it needs to provide resources across the sector including the courts, Crown Office and Procurator Fiscal Service (COPFS), legal aid, Police Scotland, Community Justice, Prisons and the third sector. There is a need to ensure that there is adequate staffing that includes judges, Fiscals, court staff, police and the legal profession. Fair remuneration must be provided, and sensitive cognisance taken

of work/life balance with increased demand by the court such as holiday courts and possible weekend courts. Considerable care and consultation are required were these to be long-term solutions.

Significantly the effects of the pandemic have meant that court time-bars have required to be extended with the accused remaining for longer on remand. The Scottish Government Justice Analytical Services Coronavirus (COVID-19) Data Page 7 Report published as at April 2021<sup>9</sup> indicated that “while the total prison population has fallen slightly with reduced court business, the number of people held on remand remains at a historic high level.” Figures to note are:

- 1,958 were on remand: 1,686 (23%) untried & 272 (4%) awaiting sentence
- 67% of arrivals were untried (630 of 939), and 17% awaiting sentence (157)

While originally proposed as emergency measures, there must be a focus on ensuring that complainers/witnesses and accused whose cases have been delayed are resolved as soon as possible. The impact on them has been huge as they await closure by giving evidence and by having the allegations against them resolved. That uncertainty/stress is not acceptable to either and their respective interests must be to the fore as solutions are identified towards recovery.

For those remaining on remand longer than the normal statutory time periods for trials is an ongoing concern. The impact of Covid on the prisons that have required to lockdown from time to time in response to outbreaks has resulted in restricted access to family and visitors and which has had an inevitable effect on the well-being of prisoners.

The need for social distancing has affected those involved in multiple accused trials at both solemn and summary level as these trials require additional facilities to be put in place.

Covid has adversely affected the most vulnerable in society including both accused and witnesses. Their participation in remote or virtual courts had been a challenge restricting their ability to access justice and obtain legal advice during the pandemic. Groups such as those in prisons, immigration detention or care settings, disabled people, children and victims of domestic abuse have been disproportionately impacted.

It is essential that the rule of law and human rights continue to be respected. Each procedural and evidential requirement from the preliminary processes (including at detention at police stations) to the trial must comply. All rights must be respected including the complainer testifying to the remanded accused. Equality of arms is ensured in fair trial taking place (Article 6 of the European Charter of Human Rights). That requires the balance maintained of the procedural equality of the parties to present their case during the trial and everyone charged with an offence to have an equal opportunity to defend himself with that of the prosecution. These parameters need to be respected while maintaining safety for all involved in the court in accordance with ongoing and emerging health advice in ensuring the requirements for social distancing are and continue to be met.

<sup>9</sup> [justice-analytical-services-coronavirus-covid-19-data-report-april-2021.pdf](#)

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.

## **Section 5 and schedule 4, Part 5 – Evidence**

The proposed amendment to the Criminal Procedure Act 1995 section 259 affects the hearsay requirements and is of considerable potential concern. This could mean that a witness in a trial could give evidence and not be subject to evidence on oath or under cross examination. We cannot therefore support the extension of hearsay provisions contained in Schedule 4 Part 6.

Depending on the technology employed, the witness may be able to give evidence from their house, or from some other location.

One of the reasons for allowing hearsay, given in section 259(2)(a), is that the person is “by reason of bodily or mental condition, unfit or unable to give evidence in any competent manner”.

The Court will need to ensure witnesses do not attempt to avoid giving oral evidence when they are fit enough to give evidence, can do so by electronic means, but claim that would not be reasonably practicable.

There has been no indication that this provision has proved problematic or been abused over the period.

## **Section 5 and schedule 4, Part 6 - Community orders**

Part 6 of the CSA referred to community orders. There are implications with the extension in this Bill, given that there was an indication that “unpaid community work hours cut as Social Work Scotland said it would “not be possible” for the 700,000 hours of unpaid work that is outstanding to be completed within the next 12 months.”<sup>10</sup>

Certain provisions relating to Community Payback Orders (CPOS) and Drug Testing and Treatment Orders are being discontinued largely due to them not being required. Though the policy intention is clear and supported, as more cases are resolved as outlined below because of additional courts, there will be an increased demand on sentencing which will presumably include a greater number of CPOs being made requiring the support and resourcing from social work. If there is a greater demand for places, we question if there will be enough facilities both to undertake reports for suitability to undertake CPOs as well as the places available and adequate supervision.

<sup>10</sup> <https://www.scotsman.com/news/crime/scots-offenders-could-have-unpaid-community-work-hours-cut-2920313>

## **Section 5 and schedule 4, Part 8 - Release of prisoners**

Part 8 of the CSA affected the early release of prisoners. The release of prisoners under the regulations was a necessary and proportionate response to the effects that coronavirus was having, and in continuing these provisions, there may be greater use made of these provisions again. We echo that any decisions on future release of additional prisoners would need to be made in partnership with the Scottish Prison Service.<sup>11</sup>

Regarding CPOs, there is a suggestion that offenders could have unpaid community work hours cut as Social Work Scotland said it would “not be possible” for the 700,000 hours of unpaid work that is outstanding to be completed within the next 12 months.

## **Section 5 and schedule 4, Part 9 - Legal Aid**

We agree with the extension of these provisions which provide the statutory authority for the Scottish Legal Aid Board to exercise flexibility in payment during the emergency. Interim payments have been an important element in supporting legal aid providers through the pandemic period and the impact, in particular, of the closure of courts and delays in court business. Ensuring the sustainability of the sector, however, has required more direct action, including increases to legal aid fees, the establishment of a traineeship fund and a resilience support programme, with the scope of a second grant round currently being considered by Scottish Government.

## **Section 6 and schedule 5 – Alcohol licensing and section 7 and schedule 6, Part 1 - Licensing other than alcohol licensing**

We have previously provided written evidence to the COVID-19 Committee of the Scottish Parliament in respect of Licensing Law.<sup>12</sup>

We agree that the relevant provisions under the CSA section 6 and schedule 5 (Licensing) section 7 and schedule 6 (licensing other than alcohol licensing) should continue in force. For licensing hearings, the following issues have been identified around the use of the emergency provisions:

- Use of remote hearings
- Extra flexibility to the Clerks and Boards
- Measures to consider retaining

<sup>11</sup> <https://www.gov.scot/publications/coronavirus-acts-second-report-scottish-parliament/pages/9/>

<sup>12</sup> [https://yourviews.parliament.scot/covid19/coronavirus-acts-feb-2021/consultation/view\\_respondent?show\\_all\\_questions=0&sort=submitted&order=ascending&q\\_text=law+soc&uuld=405775109](https://yourviews.parliament.scot/covid19/coronavirus-acts-feb-2021/consultation/view_respondent?show_all_questions=0&sort=submitted&order=ascending&q_text=law+soc&uuld=405775109)

## **Use of remote hearings**

Remote hearings have been enormously helpful during the pandemic in helping business to continue and without them, the system would have ground to a halt and the development of businesses thwarted. However, remote proceedings are not a suitable substitute for in-person hearings (as also noted above in other contexts).

Although there has not been a huge surge in new licence applications or variations for pubs and the like, the shop market has progressed with many applications being made for licences for new convenience stores. Without the Remote Hearings, this would not have been possible.

There should therefore be a return to in-person hearings for the reasons, but the benefits of the remote system could be utilised and retained particularly in some more remote Board areas. These types of hearings could be enormously beneficial. This would seem appropriate during the winter months, when travel to and from a specific Board may be difficult.

Likewise, there may be fairly straight forward applications which although technically requiring a remote hearing are more routine where requiring a number to travel great distances for a short submission is not an efficient use of time. We highlight Perth and Kinross, Highland, and Aberdeenshire as large areas with councillors and applicants living far away from the centre where meetings are physically held. There would be benefits and efficiencies for agents too across Scotland in not having to travel to Board meetings.

The absence of the ability to hold remote hearings should be contrasted that of Councils and council committees where virtual attendance is permitted under section 43 of the Local Government in Scotland Act 2003. That does not apply to Licensing Boards.

Boards could have the time, energy and capacity to segregate applications into two categories– so if the Board had a discretion to convene remote hearings as an alternate to in-persons, it could save on travel and therefore expense – leaving the more serious business to call in-person.

An additional point would be that at a time when awareness of environmental/sustainability issues is important, there are clear benefits to be gained from parties avoiding unnecessary travel if an application is suitable for being considered by means of a remote hearing.

In conclusion, provisions allowing for Remote Hearings to be held should be considered as essential and should be retained. They should not be “the norm” but would be an option where parties agree. The Boards and Clerks should be given discretion to use them as and when it is felt necessary.

## **Extra flexibility to the Clerks and Boards**

The necessity to continue to work during the pandemic has meant that approaches have been adapted which has resulted a pragmatic response from both Clerks and agents. Though the Clerks and agents work together daily, all are bound by the rules and regulations. As has been highlighted on various occasions, the relevant legislation does not work well, with the gaps and the anomalies that are well known.

There have been circumstances whereas with the 2020 Act, the Clerks have been able to exercise a degree of flexibility to deal with certain matters. That flexibility should be retained moving forward with the following providing examples:

- “Temporary Variations” of Licences allow for the accommodation of certain situations. “Takeaway” services were utilised under Licences which did not have such a facility.
- The use of Occasional Licences for periods more than 14 days allowed certain activities to take place which otherwise would not have been able to take place or at worst, would have provided a logistical nightmare for applicants (and indeed the Clerks).

### **Measures to consider retaining**

Reducing the quorum: The requirement of half as a quorum has always been onerous. Reducing the quorum just helps to allow for that greater flexibility.

In Perth & Kinross, several changes including the health of members have affected the membership, including that of the Licensing Board. That meant operating with 8, not 10 members. Reducing the quorum to 4 made it easier to continue with meetings. It takes time to get a replacement where changes arise and to get them through the qualification course.

Operating through committees of not fewer than 3 members: In Perth & Kinross, there are 3-person committee-type hearings which are used for more complex matters such as premises licence reviews where an option is to revoke the licence. It is beneficial to have only 3 members (virtually). Operating a meeting with up to 10 members is slower. Having only 3 (the Local Review Body for planning reviews has only 3 members so there is precedent) allows for a much more focussed hearing with the 3 members taking it in turn to ask questions. It makes hearings quicker as well.

Personal licences: An opportunity to look at these provisions overall would be welcome. That would mean continuing with temporary provisions aligning personal licences renewals with those similar to civic licence renewals. This would allow a renewal application lodged prior to expiry of a personal licence, to keep the licence in effect pending determination of the renewal. This offers benefits to the personal licence holder who can continue working. It relieves the pressure on Boards to process renewals of personal licences within a limited time prior to expiry of the current licences.

### **Section 7 and schedule 6, Part 4 - Local Authority meetings**

We previously welcomed the provisions of Section 7 and schedule 6, paragraph 10 of the CSA, which gives powers to publish or make available documents for inspection electronically and paragraph 14 which imposes the requirement to provide copies of committee documents. These provisions will be extended under the Bill.

Schedule 6, paragraph 13 amends the Local Government (Scotland) Act 1973 section 50A so that the public can be excluded from council meetings "whenever it is likely that, if members of the public were present, there would be a real and substantial risk to public health due to infection or contamination with coronavirus".

In relation to planning matters, paragraph 14 has enabled Local Review Bodies to be able to continue to operate without hearings being open to the public. We are aware of hearings being undertaken virtually in some cases.

In the circumstances, it seems appropriate for these provisions to be extended.

### **Section 8 and schedule 7, paragraphs 6 and 7 - Irritancy clauses in commercial leases: non-payment of rent or other sums due**

Section 2(6)(b) of the Bill seeks to expire the irritancy provisions in the CSA Schedule 7, paragraphs 6 and 7. As such, these powers will end on 30 September 2021. The effect of this is that the period to be provided in a pre-irritancy notice would reduce immediately at the point of expiry from 14 weeks to 14 days unless a longer period was stated in the lease.

The CSA provides powers for the Scottish Ministers to amend the 14-week period by regulation, under the current (temporary) section 4(3A) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (itself inserted by the CSA Schedule 7, paragraphs 6-7), whilst that provision remains in force. That allows for the possibility of tapering the reduction in the period of 14 weeks, rather than there being an immediate drop from 14 weeks to 14 days. The current terms of the Bill would mean that any tapering down of the 14 weeks via the power to make regulations would have to take place prior to 30 September 2021. After that date, the period to be provided would revert to 14 days.

We note that the Policy Memorandum to the Bill highlights that expiring these provisions is in line with other administrations across the UK<sup>13</sup>. We note a recent policy announcement by the UK Government in connection with eviction protection, including plans to extend existing measures to protect commercial tenants from eviction to 25 March 2022<sup>14</sup>.

### **Section 8 and schedule 7, paragraphs 8 to 10 - Duration of planning permission**

Section 8 and schedule 7, paragraphs 8 to 10 of the CSA provide for the extension of time limits to prevent planning permission or planning permission in principle lapsing because development has not begun within

<sup>13</sup> Policy Memorandum, paragraph 99.

<sup>14</sup> <https://www.gov.uk/government/news/eviction-protection-extended-for-businesses-most-in-need>

the relevant period. The provisions allow for Scottish Ministers to amend the definition of emergency and extended periods by regulations. The ‘emergency period’ and relevant period of extension have been extended by The Town and Country Planning (Emergency Period and Extended Period) (Coronavirus) (Scotland) Regulations 2021<sup>15</sup> meaning that the emergency period will end on 30 September 2021 and the extended period on 31 March 2022.

We consider the extension of these provisions to be appropriate in the circumstances of the ongoing pandemic.

## **Section 8 and schedule 7, paragraphs 11 to 19 – Land Registration**

The Bill seeks to extend the provisions of the CSA Schedule 7, paragraphs 11 to 14 which remain in force. Paragraph 19 is currently in force but due to be expired on 30 June 2021 by the Coronavirus (Scotland) Act 2020 (Early Expiry of Provisions) Regulations 2021.

We support the extension of the provisions of Schedule 7, paragraphs 11 to 14 which concern electronic delivery of copy deeds to Registers of Scotland. These provisions have enabled property transactions to continue throughout the period of the pandemic. Registers of Scotland has consulted on digital submissions services for the future<sup>16</sup>. We responded to this consultation in February 2021<sup>17</sup>. The extension of these provisions in the interim will allow Registers of Scotland to continue to operate the Digital Submission Service while permanent legislation is put in place.

## **Part 2- Supporting Provisions**

### **Section 9- Advancement of equality and non-discrimination**

We support the extension of this provision and suggest that it is extended to remain in force whilst any of the provisions of the coronavirus legislation remains in force. Issues around equality and human rights are always crucial – and are included in our own regulatory objectives. In emerging from a crisis of this scale, protecting people’s rights remains fundamental, ensuring that nobody is left behind and that we demonstrate solidarity as a society in the process of recovery.

<sup>15</sup> SSI 2021/100

<sup>16</sup> <https://www.ros.gov.uk/about/publications/consultations-and-surveys/2020/digital-submissions-2020/consultation-paper>

<sup>17</sup> <https://www.lawscot.org.uk/media/370537/ros-digital-consultation-2021-lss-response.pdf>

## Annex C: Measures derived from the Coronavirus (Scotland) (No. 2) Act 2020

---

### Section 2, schedule 1, Part 1 – Student residential tenancy: termination by tenant

We previously indicated our support for the provisions of the Coronavirus (Scotland) (No. 2) Act section 2 and schedule 1, Part 1 which concern termination of student residential tenancies by tenant. Section 2(7) of the Bill seeks to expire certain parts of the earlier provisions, with the effect being that a period of 28 days' notice will be required to terminate a tenancy. It seems appropriate that these provisions are extended so as to afford relevant students continued protection, albeit with a 28-day notice period.

We previously highlighted that clarification would be helpful in two areas:

- That the termination of a student residential tenancy for “a reason relating to coronavirus” may be done by an attorney, intervener or guardian and, in an emergency, it can be done by a *negotiorum gestor*.
- That “a reason relating to coronavirus” could include a mental health condition attributable to the pandemic (and, if so, perhaps that needs to be applied as a general interpretation of that phrase).

### Section 2, schedule 1, Part 5 – Bankruptcy

Please see our comments above regarding bankruptcy measures (pages 8-9).

### Section 2, schedule 1, Part 6 – Mental health: named person nomination

Section 2 and schedule 1, part 6 of the Coronavirus (Scotland) (No.2) Act 2020 made 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.

### Section 3, schedule 2, Part 1 – Criminal justice - Criminal proceedings: extension of time limits

Part 1 paragraph 1 of the Schedule related to the extension of time periods. The time periods in legislation are aimed at reducing undue delays in criminal proceedings to ensure that there is a balance maintained between fairness to the accused in avoiding long drawn-out proceedings while respecting the interests of the State to prosecute.

The CSA has already made changes to various time limits to take account of the impact of Coronavirus, which reduced the number of times that cases would need to call to be adjourned and for appearances by parties. This respects the need “to ensure the efficient operation of court business during the coronavirus outbreak, particularly to ensure that court business can be conducted in a way which will minimise unnecessary travel and gatherings of people.”<sup>18</sup>

The Bill has identified the need for some additional extensions to various time periods where we would comment as follows:

Schedule 2 paragraph 1(2) and (3) of the Bill concern an extension regarding Continuances without Plea (Sections 145(3) and 145A (3) of the 1995 Act). It removes the 28-day limit in circumstances where the accused has been released on bail or ordained to appear. This seems unobjectionable. Importantly for those remanded in custody, there is no change to the time period of 21 days remains.

Schedule 2 paragraph 1(5) of the Bill proposes to allow the court an unfettered discretion to adjourn any such hearing for such period as it considers appropriate in relation to Section 245J (3) of the 1995 Act (breach of certain orders: adjourning hearing and remanding in custody etc) where the court shall not so adjourn a hearing for any single period exceeding four weeks or, on cause shown, eight weeks.

Currently where an offender appears before the court in respect of their apparent failure to comply with a requirement of a community payback order, drug treatment and testing order or restriction of liberty order, the court may adjourn the hearing, for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with the offender. Section 245J (2) of the 1995 Act provides that the court may remand or bail the offender or ordain them to appear at the adjourned hearing.

We would suggest that there should be a finite period specified for those in remanded in custody and should not remain open-ended.

Schedule 2 paragraph 1(4) of the CSA2 concerns section 200(1) of the 1995 Act, that provides the court with a power to remand an offender for inquiry into physical or mental condition. This deals with cases where the court finds that an accused has committed an offence punishable with imprisonment and it appears to the court that, before the method of dealing with him is determined, an inquiry ought to be made into his physical or mental condition.

Section 200(2) of the 1995 Act provides that the court may remand the offender in custody or on bail (or in hospital where the court believes the offender appears to be suffering from a mental disorder) pending sentencing, to allow an inquiry into the offender’s physical or mental condition. The court may adjourn the case “for such period or periods, no single period exceeding three weeks, as the court thinks necessary to enable a medical examination and report to be made.” Section 200(3) provides the same in relation to an extension of a period of remand in hospital, but subject to the condition that the court continues to be

<sup>18</sup> Paragraph 103 of the Bill’s Policy Memorandum

satisfied on the written or oral evidence of a medical practitioner, that the person appears to be suffering from a mental disorder.

The CSA2 removed the time limits specified at sections 200(2) and 200(3) and provided that the court may adjourn a case for such a period as it considers appropriate. We were concerned at the time this was proposed, as it dealt with the restriction of liberty and we suggested that this was amended to specify a finite period as well. We remain concerned regarding these time limits.

### **Section 3, schedule 2 and Part 1 Criminal justice - Arrangements for the custody of persons detained at police stations**

We understand that these changes were required as there was no statutory basis for Prisoner Custody Officers to work within custody hubs managed by Police Scotland. As part of the operational response to the outbreak, first appearances from custody have been managed by way of video links between the police stations and courts. Though remote hearings can take place, changes were required to section 102 (2) of the Criminal Justice and Public Order Act 1994 to allow for the safe and continued administration of criminal justice and to minimise the need to transport detained persons between police custody and courts.

We supported the basis of these changes as otherwise there would be a need for Police Officers to carry out the duties required to operate the video-linked custody courts. This change minimised the movement of persons and freed up the police resources for front line duties.

Undertakings and the PCUs included in Schedule 2 of the Bill are a part of the important process of dealing with suspects from the time of their detention in police stations. We have highlighted the need to ensure that the processes at the police station are safe and respect the Scottish Government health advice for all involved requiring social distancing. That need for safety is paramount and includes the suspect, the police officers and those there in support of the suspect including solicitors and where relevant, any Appropriate Adult and/or interpreter. This is fundamental to the Scottish criminal justice system in considering questions of fairness as, according to European jurisprudence, the trial starts at the police station. The detention and interviews of suspects from that point must be in accordance with the provisions of the 2016 Act as must all court processes that follow which underpin any trial that is to be held.

### **Section 3, schedule 2, Part 1 Criminal justice - Expiry of undertaking under section 25(2)(a) of the Criminal Justice (Scotland) Act 2016**

The change enabled the continuation of undertakings given under section 25(2)(a) of the 2016 Act where an accused fails to appear to answer the undertaking at first instance and the information provided at that hearing is the reason for the accused's failure to appear is related to Covid-19. We believed that this change was reasonable in so far as providing that a warrant should not be taken where the accused has

been in touch with a solicitor or the court indicating that they cannot for reasons related to Covid-19 appear in person in response to the undertaking.

The court must be able to consider (and if necessary vary) any conditions that may have been imposed by the police when the undertaking was given. This would present the first opportunity for the imposition of such conditions to be reviewed by the court. As the Crown can modify the conditions imposed on an undertaking in terms of section 27 of the 2016 Act, we consider that the accused should have a similar right to bring the matter before the court.

### **Section 3, schedule 2, Part 2 – Proceeds of Crime**

We supported the changes in paragraphs 7 and 8 in relation to the Proceeds of Crime Act 2002. The purpose of such changes was to ensure that certain provisions relating to the periods of confiscation orders and for payment are modified in favour of the person who is affected by such orders to allow for confiscation proceedings to be postponed where they have been affected by coronavirus so that in terms of section 99 (4) of the 2002 Act, exceptional circumstances will include the effect (whether direct or indirect) of coronavirus on the proceedings. It seems appropriate for these measures to continue.

### **Section 3, schedule 2, Part 3 – Intimation, etc. of documents**

Schedule 2, paragraph 9 inserted provision into the CSA which has the effect that “where there is provision requiring or permitting a document to be displayed on the walls (or any other part) of a court building, or to be made publicly available within a court, that is instead to be done by publication of the document on the Scottish Courts and Tribunals Service (“SCTS”) website.”<sup>19</sup>

We previously noted our support for this legislative change in light of the pandemic and recognised the practical benefits that such a measure would achieve, particularly to allow commissary business to continue to function while some Sheriff Courts were closed. It seems appropriate that these measures are extended in the circumstances.

We noted that it is important to bear in mind the reasons why papers have been traditionally displayed on the walls of court. Documents displayed digitally on the SCTS website should be done so with sufficient prominence, to be clearly visible and capable of being easily located by members of the public, solicitors and other interested parties. In the context of commissary matters, we previously suggested that there would be merit in updating other relevant guidance, such as the ‘What to do after a death in Scotland’ publication, to reflect the legislative changes and draw these to the attention of the public.

<sup>19</sup> Explanatory notes, paragraph 69

More widely, the use of electronic signatures on documents relating to court proceedings has been the subject of discussion for some time. Although included as one of several temporary measures, it appears that the documents included are only those produced by the court. This provision should be extended to include all documents to be lodged with the Court by parties - in criminal and civil cases - including, for example, special defences, notices and written submissions (in appeals). This is clearly appropriate given the stated aim of these provisions, namely “to minimise the requirement for court personnel, officers of court and legal practitioners acting on behalf of parties to proceedings to be physically in contact or on justice premises and ... allow justice organisations the flexibility they require properly to prepare for a possible escalated health response.”

### **Section 5, schedule 4, Part 2 – Listed buildings and conservation areas: consents**

The provisions of section 5 and Schedule 4, paragraph 2 of the Coronavirus (Scotland) (No. 2) Act concern the extension of the period of listed building consent (LBC) and conservation area consent (CAC). At the time of introduction, we welcomed these provisions.

The provisions have the effect of extending the duration of LBCs and CACs that are due to lapse during the defined ‘emergency period’. The provisions allow for Scottish Ministers to amend the definition of emergency and extended periods by regulations. The ‘emergency period’ and relevant period of extension have been extended by The Town and Country Planning (Emergency Period and Extended Period) (Coronavirus) (Scotland) Regulations 2021<sup>20</sup> meaning that the emergency period will end on 30 September 2021 and the extended period on 31 March 2022.

The extension of these provisions under the Bill appears to be appropriate in the circumstances of the ongoing pandemic. We understand that many factors that are continuing to affect the ability to commence work within the usual required timescale as a result of the pandemic, for example material shortages.

### **Section 5, schedule 4, Part 7 – Execution of documents, etc.**

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

<sup>20</sup> SSI 2021/100

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%).

## Our previous comments on Coronavirus legislation

---

We have previously commented on Coronavirus legislation, including:

- [Briefing - Recover Renew and Transform, Scottish Parliament – Justice Debate Thursday- 10 June 2021](#)
- [COVID-19 legislation: next steps in 2021 \(Licensing Law\)](#) (March 2021)
- [COVID-19 legislation: next steps in 2021](#) (February 2021)
- [Registers of Scotland Digital Submissions 2020](#) (February 2021)
- [Scottish General Election \(Coronavirus\) Bill: response to the Standards, Procedures and Public Appointments Committee consultation](#) (November 2020) and [stage 1 briefing for MSPs](#) (December 2020)
- [Scottish Government COVID-19 guidance improvement project](#) (November 2020)
- [Coronavirus Acts: third report to Scottish Parliament](#) (October 2020)
- [COVID-19 Related Legislation: SSI2020/249: The Coronavirus \(Scotland\) Acts \(Early Expiry of Provisions\), Regulations 2020 The Coronavirus \(Scotland\) Acts \(Amendment of Expiry Dates\) Regulations 2020](#) (September 2020)
- [Letter to the COVID 19 Committee of the Scottish Parliament: Adults with Incapacity](#) (September 2020)
- [Letter to the COVID-19 Committee: The Coronavirus \(Scotland\) Acts \(Amendment of Expiry Dates\) Regulations 2020 \(the Regulations\)- Detention of Young Persons](#) (September 2020)
- [RESTORING THE COURTS POST COVID-19](#) (September 2020)
- [House of Lords Constitution Committee Inquiry into the Constitutional Implications of Covid-19](#) (July 2020)
- [Reporting on Coronavirus Acts: Adults with Incapacity provisions](#) (July 2020)
- [Clinical Guidance for NHS Scotland: Using Physical Restraint For Patients With Confirmed Or Suspected COVID-19](#) (version 1) (July 2020)
- [National Clinical and Practice Guidance for Adult Care Homes in Scotland during the COVID-19 Pandemic \(version 1.3\)](#) (July 2020)
- [Call for Evidence on impact of COVID-19 on the rural economy and connectivity in Scotland](#) (June 2020)
- [Scottish Affairs Select Committee Inquiry: Coronavirus and Scotland](#) (June 2020)
- [Restarting Jury Trials](#) (May 2020)
- [Equality and Human Rights Committee: Response to Inquiry on the Impact of COVID-19](#) (May 2020)
- Coronavirus (Scotland) (No. 2) Bill: [briefing](#) and [amendment to be introduced at stage 2](#) (May 2020)

- [Scottish Government Coronavirus \(No 2\) Bill Consultation Response](#) (May 2020)
- [Capacity Market: proposal to relax the rules temporarily in response to COVID-19](#) (April 2020)
- [COVID-19 AND SOLEMN CRIMINAL TRIALS: SCOTTISH GOVERNMENT DISCUSSION DOCUMENT](#) (April 2020) and [briefing for MSPs](#) (April 2020)
- Coronavirus (Scotland) Bill: [briefing](#), [amendment](#) to be introduced at Stage 2 concerning the Mental Health Tribunal, [further amendment](#) in relation to the period of effect of the advance notice under the Land Registration etc. (Scotland) Act 2012, and [statement on the Bill](#) (April 2020)
- [Coronavirus Bill Law Society of Scotland briefing for second reading](#) (March 2020)



**For further information, please contact:**

Michael Clancy  
Director of Law Reform  
Law Society of Scotland  
DD: 0131 476 8136  
[michaelclancy@lawscot.org.uk](mailto:michaelclancy@lawscot.org.uk)