



Briefing Note for care service providers on the Coronavirus (Scotland) Bill

The [Coronavirus \(Scotland\) Bill](#) was introduced by the Scottish Government on 31 March 2020 to respond to the emergency situation caused by the COVID-19 pandemic. The Bill complements and supplements the Coronavirus Act 2020, the fast tracked UK legislation passed by Parliament on 25 March, and the related [Legislative Consent Memorandum](#).

The provisions in the Bill were introduced in addition to the [Health Protection \(Coronavirus\) \(Restrictions\) \(Scotland\) Regulations 2020](#) which prohibit people from leaving their homes without reasonable excuse and ban public gatherings of more than two people.

The Coronavirus (Scotland) Bill was passed by the Scottish Parliament on 1 April and received Royal Assent on 6 April. The provisions will [come into force](#) on 7 April.

The Scottish Government intends the Bill to address the needs of central and local government, and those involved in health and social care, in their response to the pandemic.

The Bill introduces temporary changes to the way essential public services operate and the way they are regulated, in order for these services to continue to be able to discharge their functions in the way they were intended to.

There are provisions affecting the work of the Care Inspectorate, the providers and services we work with, and individuals experiencing care. We have produced this briefing note to help highlight implications for providers.

Implications for providers

Looked-after children and children's hearings

Looked-after children

- The Bill extends the timescales for local authorities to carry out reviews of emergency kinship care placements and extends the timescales for reviewing pre-existing placements. The first review must be carried out within 3 months of the placement, instead of six weeks. Subsequent reviews must then be carried out within six months of the date of the previous review.
- The upper limit will be removed to ensure foster carers can look after additional children if required, and where local authorities deem it safe to do so. The Bill also allows a foster carer to look after more children than their current approval allows.

- The Bill will allow local authorities to extend placements in certain circumstances for a period not exceeding 24 weeks, doubling the current 12 week limit.

Secure accommodation

- For placements in secure accommodation, the Bill allows the Principal Reporter an additional 24 hours to arrange a children's hearing on top of the 72 hour limit, if the reporter considers it is not practicable to arrange a hearing within 72 hours.
- The Bill also extends the maximum period during which a child may be kept in secure accommodation without the authority of the children's hearing or the sheriff from an aggregate of 72 hours in any period of 28 consecutive days to 96 hours.

Children's hearings

- Paragraph 1 (2) of schedule 3 amends the Children's Hearings Act 2011 to provide that a children's hearing can consist of fewer than three members where it is not practicable for a hearing to consist of three members.
- Paragraph 2 (2) of the Bill amends the 2011 Act so that the period during which a child assessment order has effect must begin no later than 48 hours after it is granted and must not exceed 5 days.
- Sections 45 and 46 provide that where a child protection order (CPO) has been granted by the sheriff, a children's hearing (referred to as a "2nd working day hearing") must be held on the second working day after the day on which the child is taken to the place of safety or the second working day after the day on which the CPO is made, as the case may be.
- Paragraph 3(2) amends section 83 of the 2011 Act to provide that no compulsory supervision order shall lapse if its original end date has past, except where it has not otherwise been reviewed and continued within 6 months of its expiry date.
- To allow more flexibility, the Bill extends the period of time that an interim compulsory supervision order granted by a children's hearing lasts to 44 days.
- The timescale for making appeals against children's hearings decisions will be extended from 21 to 42 days.
- The time limit for an interim compulsory supervision order to be reviewed by a hearing will also be extended from 3 to 7 days.
- Paragraph 8 amends current rules to facilitate the remote attendance of other people who have the right to attend a pre-hearing panel or a children's panel.

Adults with incapacity

In response to concerns about current rules about the renewal of guardianships for adults with incapacity, the Bill provides for the automatic extension of any guardianship due to expire while the Bill is in force.

The Bill also:

- Automatically extends any section 47 certificate due to expire while it is in force
- Removes the requirement to adhere to principle 4 of section 1 of the Social Work (Scotland) Act 1968, to take account of the views of the adult and interested parties.

Local authorities will also be allowed to take steps in relation to section 13ZA, meaning they will be able to provide a community care service to an incapacitated adult despite them having a guardian, welfare attorney or an in-process intervention order. This provision is in response to the Scottish Government's concerns that vulnerable adults who lack capacity may remain in acute hospital wards, increasing their risk of contracting the virus.

Justice

Schedule 4 on various aspects of the justice system is introduced by section 5 of the Bill.

Courts and tribunals

Provisions in Schedule 4 include those dealing with the extension of time limits set out in the Criminal Procedure (Scotland) Act 1995. The Policy Memorandum notes that time limits, in individual cases, can be extended by the court where justified but argues that a general extension would be better.

The Bill introduces the following time limit extensions where an accused person is remanded in custody pending trial:

- Summary procedure – 40-day limit on bringing the accused to trial
- Solemn procedure – 140-day limit on bringing the accused to trial

In relation to these particular limits, the Bill provides for 3-month extension to the former and a 6-month extension to the latter.

The Bill as introduced had also included measures to allow more trials of serious crimes to be heard entirely by judges, with jury trials suspended. During the parliamentary debate, the Scottish Government confirmed this part of the Bill would be deleted. Another emergency Bill will be introduced on 21 April to re-examine the issue.

Release of prisoners

The Bill makes provision that Scottish Ministers can by regulations provide for the early release of certain prisoners, "in order to protect the security and good order of the prison and the health, safety and welfare of anyone accommodated or working in the prison". Scottish Ministers will be able to make different provision in the regulations for different classes of prisoner, different prisons or other purposes. Prison Governors will also have a veto over release. The Bill also states a prisoner is not to be released where certain criteria apply, for example life prisoners.

The regulations made under these provisions are time-limited and cease to have effect after 180 days (or 28 days if made under the expedited procedure and not affirmed during that period), although release undertaken during their extant period will still remain in effect.