

Coronavirus (Discretionary Compensation for Self-isolation) (Scotland) Bill

Financial Memorandum

Introduction

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Coronavirus (Discretionary Compensation for Self-isolation) (Scotland) Bill, introduced in the Scottish Parliament on 15 November 2021.

2. The following other accompanying documents are published separately:

- Explanatory Notes (SP Bill 6–EN);
- a Policy Memorandum (SP Bill 6–PM);
- a Delegated Powers Memorandum (SP Bill 6–DPM);
- statements on legislative competence by the Presiding Officer and the Scottish Government (SP Bill 6–LC).

3. This Financial Memorandum has been prepared by the Scottish Government to set out and provide best estimates of the costs, savings and changes to revenue to which this Bill would give rise. It does not form part of the Bill and has not been endorsed by the Parliament.

Background

4. The Bill makes temporary modifications to the Public Health etc. (Scotland) Act 2008 (“the 2008 Act”) so that health boards have discretion as to whether to pay compensation for self-isolation in connection with COVID-19.

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5. The 2008 Act contains, at section 56, a duty on health boards to compensate people who are asked in writing by the health board to voluntarily quarantine, or to limit their movements or activities. Section 58 of the same Act sets out a further duty on health boards to compensate carers of those people and carers of people subject to an exclusion order, restriction order or quarantine order. A temporary modification of these duties was contained in paragraph 46 of schedule 21 of the Coronavirus Act 2020 (“the UK Act”), which was a response to the situation caused by the COVID-19 pandemic.
6. The modification made by the UK Act changed the duty on health boards to pay compensation to a discretionary power to do so, during times that Scotland is in a “transmission control period” by virtue of a statutory declaration made under paragraph 25 of schedule 21 of that Act.
7. The statutory declaration must be revoked by the Scottish Ministers when they are no longer of the view that COVID-19 is a serious and imminent threat to public health, and that the powers in schedule 21 of the UK Act remain a suitable means to reduce transmission.
8. The Bill has the effect that the duty on health boards to pay compensation is reinstated in respect of requests to self-isolate, for reasons other than COVID-19. Where the request is made for COVID-19 related reasons, the Bill provides that payment of compensation is discretionary. This modification has effect for an initial period of approximately 6 months from commencement of the Bill. This period is subject to amendment by the Scottish Ministers under the regulation-making powers set out in the Bill. The period may be reduced, or it may be extended by no more than 6 months at a time.
9. Section 56 of the 2008 Act imposes a duty on Health Boards to pay compensation to a person who receives a written request from the Board to be quarantined, to be excluded from entering or remaining in a specified place or to refrain from carrying on any activity or type of activity as a result of an infectious disease. Section 58 contains additional provision requiring health boards to pay compensation to carers of people who are requested or ordered to quarantine, etc., for example, parents of children who are requested to isolate (perhaps following a positive COVID-19 test).

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10. These compensation provisions were intended to support people who are subject to a request to isolate (or who are required to care for those who are isolating) as a result of a small-scale outbreak, rather than a pandemic like COVID-19.

11. The 2008 Act was not drafted with a global pandemic, such as COVID-19, in mind. The types of outbreaks referenced by the Policy Memorandum for that Bill are diseases such as E-Coli.¹ When the WHO declared a global pandemic, the UK Act was brought in to provide powers in a number of areas of pandemic management. The duty to pay compensation was temporarily modified by paragraph 46 of schedule 21 of the UK Act so that the obligation to pay compensation was suspended and replaced with a discretionary power to pay compensation. The modifications came into effect on 25 March 2020.

12. This modification only remains in force while schedule 21 of the UK Act remains in force and the statutory declaration made under that schedule remains in place. That schedule will expire 2 years after it came into force unless the power in section 90 is used to extend the effect of schedule 21 or to bring forward its expiry. The declaration is to the effect that the Scottish Ministers are of the view that:

- COVID-19 is a serious and imminent threat to public health; and
- the powers in schedule 21 of the UK Act remain a suitable means to reduce transmission of Covid.

If the Scottish Ministers cease to be of this view, they must revoke the declaration.

13. This Bill seeks to continue, in relation to COVID-19, the effects of the existing provisions in the UK Act relating to the duty to provide compensation, ensuring the modification extends beyond the expiry of the relevant provisions of that Act or a revocation of the statutory declaration. The Bill, while restricting the modification to COVID-19, extends the effective time period for the modification until the end of 31 October 2022. The date of expiry could be extended or brought forward, if necessary, through regulation-making powers contained in the Bill.

¹ [Policy Memorandum - Public Health Etc \(Scotland\) Act 2008](#)

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14. While the UK Act modification remains in effect, alternative financial assistance for those people self-isolating due to COVID-19 who are most likely to require it due to their income level has been and is being provided through the Self-Isolation Support Grant² (“the SISG”), which was brought into effect in September 2020 and has been running since then. Parents and carers of those who are under 16 and are notified to self-isolate are also currently eligible to claim the SISG. The Grant is a one-off £500 payment to people who are self-isolating as a result of coronavirus, targeted at those who meet the eligibility criteria (i.e. generally, those who earn the equivalent of the real living wage or less). It is funded by the Scottish Government through the Scottish Welfare Fund and delivered through Local Authorities, with their agreement.

15. If this Bill is passed then this alternative financial assistance will continue. If the UK Act provisions cease to have effect and no alternative way of modifying sections 56 and 58 of the 2008 Act is in effect, then the duties in those sections would apply and Health Boards would be liable to pay compensation to all people they ask in writing to self-isolate, as well as their carers.

Financial Impacts on the Scottish Administration and Health Boards

16. The overall estimated financial implications of the Bill are outlined below:

Fig 1. Estimated savings if modification remains in place and Self-Isolation support remains principle means of compensation for those isolating

	Estimated costs if Bill does not pass	Estimated costs if Bill does pass and SISG continues	Avoided cost if Bill passes	Note
FY 21-22	n/a	£18.8 million	n/a	

² <https://www.gov.scot/publications/coronavirus-covid-19-scottish-welfare-fund-statutory-guidance/>

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FY 22-23	£0-£380 million	£0-18.8 million	£0-£361 million	Both estimates are based on COVID-19 case rates in previous financial years
FY 23-24 onwards	Costs would be recurring dependent on the level of COVID-19 infection rates			

17. The current cost of the Self-Isolation Support Grant, as reported by the Scottish Fiscal Commission, is £18.8 million. However the costs referred to in this Bill apply to the projected cost of full compensation, as set out below.

18. Suspending the 2008 Act duty and introducing COVID-19-specific support through the SISG has been essential to ensuring an appropriate response to supporting people through the pandemic. Similarly, the financial impacts of self-isolation fall most heavily on those who are unable to work from home, which is often those in industries with low pay and where the incentive to break isolation will be strong. It is therefore crucial that support for those on lower incomes, such as the SISG, which is targeted to those earning the equivalent of the real living wage or less, is in place.

19. This Bill does not give rise to a direct financial cost on the Scottish Administration and health boards. It avoids a requirement to spend, as outlined in the paragraphs below, an estimated of £361 million, according to the Scottish Government’s estimate of the costs of the compensatory duty. The costs of providing support for self-isolation through the SISG are, as outlined above, met separately.

- The Scottish Government has estimated an approximate cost of providing full compensation in 2021/22 of £380 million.³ If the Bill

³ This is the cost of universal compensation for losses resulting from self-isolation, regardless which public authority made the request to self-isolate. If the Bill does not pass, compensation would be payable under the 2008 Act. As a result, and so that all those requested to self-isolate are treated fairly, steps would need to be taken to ensure

does not pass, compensation would be payable under the 2008 Act. As a result, and to ensure that all those requested to self-isolate are treated fairly, steps would need to be taken to ensure that compensation is available to all, regardless of whether it is a health board or other body that issues the request to self-isolate.

- This is based on multiplying:
 - The total number of unique isolators between October 2020 and June 2021 as recorded by Public Health Scotland (**931,099**);⁴
 - The average annual pay for 2020 (£29,706), representing the latest published data from the Annual Survey of Hours and Earnings, converted into net terms using 2021/22 tax rates (£23,839) and pro-rated for 10 days (**£653**);⁵
 - The average percentage of adults in employment between October 2020 to June 2021, according to the Labour Force Survey (2,633,495 over 4,474,979 = 59%),⁶ with the average number of people on furlough between October and May subtracted from the number of employed adults (291,959)⁷ and the denominator inflated to reflect the fact that self-isolators also include children using the proportion of people who applied to the SISG as a parent or carer of someone asked to self-isolate (16%)⁸ – the final proportion comes to **44%**; and
 - The estimated percentage of workers unable to work from home and who would lose pay as a result of isolating, based on data from the Office for National Statistics – some **56%**.⁹

that compensation is available to all, regardless of whether it is a health board or other body that issues the request to self-isolate.

⁴ <https://publichealthscotland.scot/publications/covid-19-statistical-report/covid-19-statistical-report-29-September-2021/dashboard>

⁵ <https://www.nomisweb.co.uk/>

⁶ <https://www.nomisweb.co.uk/>

⁷ <https://www.gov.uk/government/statistics/coronavirus-job-retention-scheme-statistics-29-july-2021/coronavirus-job-retention-scheme-statistics-29-july-2021>

⁸ <https://www.gov.scot/publications/swf-monthly-management-information/>

⁹ <https://cy.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/coronavirusandhomeworkingintheuk/april2020>

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- These figures, once multiplied, produce a range of £150 million to £168 million, depending on whether furloughed workers are included in the calculation. This represents between 18 and 21 times the cost of the SISG between October to June 2021 minus administrative costs (£8,1750,00).¹⁰ We round this ratio to **20**.
- We then apply this ratio to the level of expenditure on the Self-Isolation Support Grant (minus administration) forecast by the Scottish Fiscal Commission for 2021/22 (£18.8m)¹¹ to estimate that the annual cost of meeting the compensatory duty, if the Bill were not to pass, at this stage of the pandemic, would be approximately **£380 million**.¹²

20. This figure rests on a number of assumptions which are in flux, including rates of transmission of COVID-19 and the requirements around self-isolation as a means of reducing those rates of transmission. It is a best estimate based on the available data.

21. The SISG is administered by Local Authorities, but the costs, along with administration costs, are provided by the Scottish Government via the Scottish Welfare Fund. Local Authorities award any grants that meet the eligibility criteria, and they are reimbursed in full, on a quarterly basis, by the Scottish Government.

22. The Scottish Fiscal Commission have estimated that total spend on the SISG this year will reach at least £18.8 million.¹³ It is difficult to project future demand for the Self-Isolation Support Grant as it is contingent on the rates of transmission of the virus and on isolation requirements. However, it is reasonable to assume that the annualised cost of SISG would not be greater than these levels going forward, given the current high rates of vaccination in the population and the easing of self-isolation requirements since mass vaccination has taken place.

¹⁰ <https://www.gov.scot/publications/swf-monthly-management-information/>

¹¹ <https://www.fiscalcommission.scot/publications/scotlands-economic-and-fiscal-forecasts-august-2021/>

¹² This is the cost of universal compensation for losses resulting from self-isolation, regardless which public authority made the request to self-isolate.

¹³ <https://www.fiscalcommission.scot/wp-content/uploads/2021/08/Scotlands-Economic-and-Fiscal-Forecasts-August-2021-Full-report.pdf> – see figure 5.4.

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23. The Scottish Government also provided administration funding to Local Authorities, to distribute the SISG, in December 2020, totalling £906,500. A further £823,000 was provided in September 2021. The Scottish Government is also reimbursing Local Authorities further, on a cost-per-application basis, for each additional application received, beyond the numbers of applications reimbursed by these initial settlements. It is challenging to estimate the exact spend on future administrative costs, given their dependencies on COVID-19 transmission rates and the corresponding need to self-isolate, which can be unpredictable. It would not be unreasonable to assume similar administration costs would apply going forward, depending on those factors.

24. If the Bill is not passed, and the UK Act provisions cease to have effect, then compensation will be payable to people self-isolating due to COVID-19. Unlike the SISG, compensation under the 2008 Act provisions is not capped. Under those provisions, compensation will be determined by the losses incurred by all self-isolating people, and their carers, rather than those most in need and who meet the eligibility criteria currently in place for the SISG.

25. As noted above, the mechanisms for delivering the SISG are not directly impacted by the provisions of this Bill. However the SISG is the Scottish Government's chosen mechanism for providing targeted financial support to those asked to self-isolate and in need. Based on the costings set out above, the decision to provide support through that grant, rather than compensation under the duty in the 2008 Act could mean avoided costs of up to £361 million, if this Bill is successfully passed. Thus, the provisions of this Bill represent a saving that might otherwise have been incurred were the Scottish Government to do nothing.

26. The Scottish Government acknowledges that there is a level of uncertainty inherent in some of the savings estimated in this Financial Memorandum. Precise costs will depend on the number of people being asked to self-isolate and the amount of their losses.

27. Estimated costs are based on SISG payments already made during 2020-21 and 2021-22 and best estimates of costs if compensation had to be paid instead of the SISG payment. These payments are a one-off £500 payment to people who are isolating as a result of COVID-19, earn the equivalent of the real living wage or less, and who lose income as a result.

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The Scottish Fiscal Commission outlines that the budget for these payments runs to £18.8 million, as outlined in the calculations above.

28. As noted above, the modification currently relied upon only remains in force while schedule 21 of the UK Act remains in force and the statutory declaration made under that schedule remains in place. Should the statutory declaration be revoked, or the schedule 21 of the UK Act be expired without a further modification to the 2008 Act being made, the costs of full compensation would be incurred. The UK Act is due to expire at the end of March 2022. As previously mentioned, the statutory declaration could require revocation before then.

Financial Impacts on Local Authorities and Other Bodies

29. If the Bill is passed, and the SISG continues in its current form, then funds will need to be provided through the Scottish Welfare Fund by the Scottish Government. The current estimates, as outlined above, by the Scottish Fiscal Commission of the budget for this support is £18.8 million. The administrative costs, most recently provided at an annualised cost of £830,000, would also need to be provided through the Scottish Government.

30. The administration and distribution costs of the SISG incurred by Local Authorities are met in full through the Scottish Welfare Fund and approved and provided on a quarterly basis by the Scottish Government. As outlined above, if this Bill did not pass, these costs would increase due to compensation being universal.

31. Whilst the costs of the Self-Isolation Support Grant are not directly impacted by this Bill, they are provided through the Scottish Fiscal Commission, which is required to provide a cost estimate for the SISG, because it is administered through social security legislation. The Scottish Fiscal Commission's most recent estimate of these costs is, as outlined above, £18.8 million.

Financial Impacts on Individuals and Businesses

32. There are no expected effects on businesses although there could be limited impacts on sole traders or small businesses where the possibility of working from home is not possible. This is covered in greater detail in the

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Business and Regulatory Impact Assessment which will be published alongside this Bill on the Scottish Government website at <http://www.gov.scot/Publications/Recent>.

33. However, certain individuals may be impacted, insofar as the amount of compensation that they might have been entitled to were it not for this Bill may have been higher. Scottish Government analysts put the cost of this full compensation at some £380 million. This Financial Memorandum should be read alongside the Impact Assessments published alongside this document and the Bill. Those assessments set out in detail the impact on individuals – namely that those on lower incomes and in less secure work will be most affected by this modification in place – and the impact the current support for isolation places on mitigating these impacts. In particular, people in minority groups and disabled are more likely to include those on low incomes (for instance, 51% of disabled people are on the lowest income quintile) may lose out from the modification remaining. That said, the current support for self-isolation is targeted towards those on low incomes, and provides extensive mitigation against these impacts.

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