

CORONAVIRUS (EXTENSION AND EXPIRY) (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 (Extension and Expiry) (Scotland) Bill, introduced in the Scottish Parliament on 18 June 2021.
2. The following other accompanying documents are published separately:
 - Explanatory Notes (SP Bill 1-EN);
 - a Policy Memorandum (SP Bill 1-PM);
 - a Delegated Powers Memorandum (SP Bill 1-DPM);
 - statements on legislative competence by the Presiding Officer and the Scottish Government (SP Bill 1-LC).
3. This Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

BACKGROUND

4. The purpose of the Coronavirus (Extension and Expiry) (Scotland) Bill (“the Bill”) is to update the response to the emergency situation caused by the coronavirus (COVID-19) pandemic. The Bill amends: the Coronavirus (Scotland) Act 2020, passed by the Scottish Parliament on 1 April 2020; and the Coronavirus (Scotland) (No.2) Act passed by the Scottish Parliament on 20 May 2020 (“the Scottish Acts”).
5. The Scottish Acts have provided powers and measures which have helped to protect the public, maintain essential public services and support the economy in the face of the unprecedented and ongoing public health and economic challenges created by the pandemic. This includes protections for individuals in areas such as housing, measures to support the ongoing operation of the justice system, and support for public bodies in their response to coronavirus (COVID-19) such as adjustments to deadlines for reports and accounts.
6. The Scottish Acts will expire on 30 September 2021¹ and the temporary powers and measures provided by the provisions in the Acts will cease to have effect at that time. The Scottish Government is of the view that many of these provisions continue to be a necessary and important

¹ Section 12 of the Coronavirus (Scotland) Act 2020 and section 9 of the Coronavirus (Scotland) (No.2) Act 2020

part of Scotland’s overall strategic approach to combatting the on-going public health crisis. The Bill, therefore, extends the Scottish Acts beyond 30 September 2021 to 31 March 2022. The Bill achieves this by amending Parts 1 of the Scottish Acts in order that that they are extended in their entirety rather than extending each provision individually.

7. As Part 1 of each Scottish Act will be extended in its entirety, the Bill also expires the provisions which have served their purpose and are not necessary beyond 30 September 2021. Details of those provisions to be expired are provided in the Policy Memorandum which accompanies the Bill. Information on the costs associated with not extending each of those measures is set out later in this memorandum.

8. An explanation of the continued necessity of the provisions not being expired is provided in the Policy Memorandum which accompanies the Bill. Information on the costs associated with extending each of those provisions is set out later in this memorandum².

9. The Scottish Acts provide the Scottish Ministers with the power to bring forward the expiry of provisions in the Acts by way of regulations. This power will remain in force and the Scottish Government has committed to expiring provisions as soon as they are no longer considered necessary. Where a provision is no longer considered necessary, therefore, the Scottish Ministers may bring it to an end earlier than 31 March 2022. Furthermore, the Scottish Government will still be required to review and report on the operation of the provisions in Part 1 of the Scottish Acts every two months.

10. The provisions in the Scottish Acts which are no longer necessary beyond 30 September 2021 to respond to the on-going situation and will therefore be expired are:

- Temporary extension of moratoriums on diligence (multiple applications) (Section 3 and schedule 2: paragraphs 2 and 3 of the Coronavirus (Scotland) Act 2020);
- Children and vulnerable adults: children’s hearings (Section 4 and schedule 3: paragraphs 1 to 5 and 7 to 10 of the Coronavirus (Scotland) Act 2020);
- Vulnerable adults: cases of adults with incapacity (Section 4 and schedule 3 paragraphs 11 of the Coronavirus (Scotland) Act 2020);
- Community orders (Section 5 and schedule 4 paragraphs 12; 14; 15(1) reference to “and drug treatment and testing orders.”; 15(6) reference to “or drug treatment and testing order” to expire; 16 definition of “drug treatment and testing order”; definition of “relevant local authority” removing paragraph (b) and definition of “specified period” of the Coronavirus (Scotland) Act 2020);
- Freedom of information (Section 7 and schedule 6 paragraph 6 of the Coronavirus (Scotland) Act 2020 and Section 5 and schedule 4: paragraphs 10 and 11 of the Coronavirus (Scotland) (No.2) Act 2020);
- Duties under the Public Finance and Accountability (Scotland) Act (Section 7 and schedule 6, paragraph 15 of the Coronavirus (Scotland) Act 2020);

² Costs to be met by the Scottish Government, whether upfront payments or reimbursement of costs met by other bodies, will be provided for in in the relevant Budget Acts and budget revisions.

- Social Security (Section 8 and schedule 7 paragraph 1(b) and 5 of the Coronavirus (Scotland) Act 2020);
- Irritancy clauses in commercial leases: non-payment of rent or other sums due (Section 8 and schedule 7 paragraph 6 and 7 of the Coronavirus (Scotland) Act 2020);
- Student residential tenancy: termination by tenant (Schedule 1: paragraph 3(2)(b)(i), the opening words of paragraph 3(2)(b)(ii) and paragraph 3(3) and (4) of the Coronavirus (Scotland) (No.2) Act 2020);
- Coronavirus Carer's Allowance Supplement (Section 2 and schedule 1 paragraph 6 of the Coronavirus (Scotland) (No.2) Act 2020);
- Care Homes - Further provisions (Section 2 and schedule 1 paragraphs 22 and 23 of the Coronavirus (Scotland) (No.2) Act 2020);
- Marriage and Civil Partnership (Section 2 and schedule 1 paragraph 24 of the Coronavirus (Scotland) (No.2) Act 2020).

11. The provisions in the Scottish Acts which are not to be expired, and will therefore be extended, are:

- Eviction from dwelling-houses (Section 2 and schedule 1: paragraphs 1 and 4 of the Coronavirus (Scotland) Act 2020);
- Temporary extension of moratoriums on diligence (Section 3 and schedule 2, paragraphs 1 and 4 of the Coronavirus (Scotland) Act 2020);
- Courts and tribunals: conduct of business by electronic means (Section 5 and schedule 4: paragraphs 1-6 of the Coronavirus (Scotland) Act 2020);
- Fiscal fines (Section 5 and schedule 4: paragraph 7 of the Coronavirus (Scotland) Act 2020);
- Cases beginning with an appearance from custody (Section 5 and schedule 4: paragraphs 8 and 9 of the Coronavirus (Scotland) Act 2020);
- Extension of time limits (Section 5 and schedule 4: paragraph 10 of the Coronavirus (Scotland) Act 2020);
- Exceptions to the rule that hearsay evidence is inadmissible (Section 5 and schedule 4: paragraph 11 of the Coronavirus (Scotland) Act 2020);
- Community orders (Section 5 and schedule 4: paragraphs 13, 15 (as far as it relates to community payback orders) and 16 of the Coronavirus (Scotland) Act 2020);
- Parole Board (Section 5 and schedule 4: paragraphs 17 and 18(1) and (3) of the Coronavirus (Scotland) Act 2020);
- Release of prisoners (Section 5 and schedule 4: paragraphs 19 and 20 of the Coronavirus (Scotland) Act 2020);
- Legal Aid (Section 5 and schedule 4: paragraphs 21 – 23 of the Coronavirus (Scotland) Act 2020);

This document relates to the Coronavirus (Extension and Expiry) (Scotland) Bill (SP Bill 1) as introduced in the Scottish Parliament on 18 June 2021

- Alcohol licensing (Section 6 and schedule 5 of the Coronavirus (Scotland) Act 2020) and Licensing other than alcohol licensing (Section 7 and schedule 6: paragraph 1 of the Coronavirus (Scotland) Act 2020);
- Freedom of Information (Section 7 and schedule 6: paragraphs 2 and 7 of the Coronavirus (Scotland) Act 2020);
- Freedom of Information (Section 5 and schedule 4: paragraph 12 of the Coronavirus (Scotland) (No.2) Act 2020);
- Duties in respect of reports and other documents (Section 7 and schedule 6: paragraphs 8 – 10 of the Coronavirus (Scotland) Act 2020);
- Local Authority meetings (Section 7 and schedule 6: paragraphs 11-14 of the Coronavirus (Scotland) Act 2020);
- Duration of planning permission (Section 8 and schedule 7: paragraphs 8 – 10 of the Coronavirus (Scotland) Act 2020) and Listed buildings and conservation areas: consents (Section 5 and schedule 4: paragraph 2 of the Coronavirus (Scotland) (No.2) Act 2020);
- Land registration: electronic delivery of copy of deed to Registers of Scotland (Section 8 and schedule 7: paragraphs 11-14 of the Coronavirus (Scotland) Act 2020) and registers kept by the Keeper of the Registers of Scotland (Section 5 and schedule 4: paragraph 3 and 4 of the Coronavirus (Scotland) (No.2) Act 2020);
- Scrutiny of subordinate legislation in urgent cases (Section 8 and schedule 7: paragraphs 23-30 of the Coronavirus (Scotland) Act 2020);
- Student residential tenancy: termination by tenant (Section 2 and schedule 1: paragraphs 1 – 3 of the Coronavirus (Scotland) (No.2) Act 2020, except paragraph 3(2)(b)(i), the opening words of paragraph 3(2)(b)(ii) and paragraph 3(3) and (4) which are being expired);
- Tenancies: pre-action requirements for order for possession or eviction order on ground of rent arrears (Section 2 and schedule 1: paragraphs 4 and 5 of the Coronavirus (Scotland) (No.2) Act 2020);
- Social care staff support fund (Section 2 and schedule 1: paragraph 7 of the Coronavirus (Scotland) (No.2) Act 2020);
- Bankruptcy (Section 2 and schedule 1: paragraphs 8, 10 and 12 of the Coronavirus (Scotland) (No.2) Act 2020);
- Mental Health: named person nomination (Section 2 and schedule 1: paragraph 15 of the Coronavirus (Scotland) (No.2) Act 2020);
- Care Homes - Emergency directions and emergency intervention orders (Section 2 and schedule 1: paragraphs 16 – 17 of the Coronavirus (Scotland) (No.2) Act 2020);
- Powers to purchase care home services and care at home providers (Section 2 and schedule 1: paragraphs 18 to 21 of the Coronavirus (Scotland) (No.2) Act 2020);
- Criminal Justice - Criminal proceedings: extension of time limits (Section 3 and schedule 2: paragraph 1 of the Coronavirus (Scotland) (No.2) Act 2020);

This document relates to the Coronavirus (Extension and Expiry) (Scotland) Bill (SP Bill 1) as introduced in the Scottish Parliament on 18 June 2021

- Criminal Justice - Arrangements for the custody of persons detained at police stations (Section 3 and schedule 2: paragraphs 2 – 5 of the Coronavirus (Scotland) (No.2) Act 2020);
- Criminal Justice - Expiry of undertaking under section 25(2)(a) of the Criminal Justice (Scotland) Act 2016 (Section 3 and schedule 2: paragraph 6 of the Coronavirus (Scotland) (No.2) Act 2020);
- Proceeds of Crime (Section 3 and schedule 2: paragraphs 8 and 9 of the Coronavirus (Scotland) (No.2) Act 2020);
- Intimation etc. of documents (Section 3 and schedule 2: paragraph 10 of the Coronavirus (Scotland) (No.2) Act 2020);
- Care services: giving of notices by the Care Inspectorate (Section 5 and schedule 4: paragraph 5 of the Coronavirus (Scotland) (No.2) Act 2020);
- Execution of documents, etc. (Section 5 and schedule 4: paragraph 9 of the Coronavirus (Scotland) (No.2) Act 2020);
- Council tax: exempt dwellings (Section 5 and schedule 4: paragraph 14 of the Coronavirus (Scotland) (No. 2) Act 2020);
- Restriction on giving grant to businesses connected to tax havens (Section 5 and schedule 4: paragraph 16 of the Coronavirus (Scotland) (No.2) Act 2020).

COSTS ASSOCIATED WITH THE MEASURES TO BE EXPIRED BY THE BILL

TEMPORARY EXTENSION OF MORATORIUMS ON DILIGENCE (MULTIPLE APPLICATIONS) (SECTION 3 AND SCHEDULE 2: PARAGRAPHS 2 AND 3 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

12. These provisions remove the prohibition against benefitting from more than one moratorium on diligence in any 12 month period. The intention behind this amendment was to ensure that those who had recently had a moratorium prior to the on-set of the pandemic were not excluded from the effect of the changes. This provision has now been in place since 7 April 2020 and the policy rationale to protect those who had utilised a pre-pandemic 6 week moratorium does not exist and these particular provisions are not being extended.

COSTS ON THE SCOTTISH ADMINISTRATION

13. The expiry of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

14. The expiry of these provisions will result in minimal costs for local authorities. Some amendment to internal guidance or training may be required. In terms of local authorities' role as a creditor – for example in collecting unpaid council tax – the expiry of provisions may enable debt recovery action to commence where moratorium protection is no longer in force and a repeat application cannot be submitted.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

15. The expiry of these provisions will result in no direct costs for other bodies, individuals and businesses. For businesses who are creditors, the expiry of provisions may enable debt recovery action to commence where moratorium protection is no longer in force and a repeat application cannot be submitted.

CHILDREN AND VULNERABLE ADULTS: CHILDREN'S HEARINGS (SECTION 4 AND SCHEDULE 3: PARAGRAPHS 1 TO 5 AND 7 TO 10 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

16. The Coronavirus (Scotland) 2020 Act contains provisions which allow changes to current arrangements for children's hearings and in relation to the placement of children who are looked after by local authorities. The changes are outlined in schedule 3 of that Act and explained in more detail in the Policy Memorandum. Among a range of measures, these changes relax existing requirements for the composition of children's hearings, and the administration and conduct of children's hearings. There are extensions to the timescales for when certain legal orders must be reviewed and appeals against legal orders lodged. The timescales for review of children's cases when they are placed in different forms of accommodation are extended and local authorities are enabled to use foster carers more flexibly to look after additional children when necessary. These provisions will all expire on 30 September 2021; transitional savings will be required to ensure any decisions or orders made under the Coronavirus (Scotland) Act 2020 prior to that date do not automatically fall.

COSTS ON THE SCOTTISH ADMINISTRATION

17. The Scottish Government invested £2 million across 2020/21 and 2021/22 to provide Scottish Children's Reporter Administration with extra staffing resources, improved ICT systems, structural changes to children's hearings centres, source alternative venues, Person Protective Equipment and new cleansing regimes. This is linked to the Children's Hearings Covid Recovery Plan overseen by the main statutory partners and the Children's Hearings Improvement Partnership. A further £0.5 million was provided to assist with a 2020/21 winter programme of investment in alternatives to hearings, pre-referral screening, and improved digital accessibility for children via devices and data allocated to advocacy providers.

18. The expiry of these provisions will not impose additional costs on the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

19. Local authorities will need to inform professionals who may work with children supported by the children's hearings system that normal practices and timescales will start to resume from 30 September. The provision of awareness raising material to clarify transitional savings arrangements via CoSLA and Social Work Scotland as well as the Children's Hearings Improvement Partnership and the Youth Justice Improvement Board will be proportionate and effective in ensuring the necessary understanding of the impact of the Bill, and could incur marginal additional costs.

20. The expiring of these provisions will result in no direct costs to local authorities because, whether on a short or long term basis, costs to the local authority are calculated per child. Local authorities may make savings if children from the same family can be placed together with one carer where provisions apply to placement limits because there will be a reduction in additional costs relating to maintaining their relationship together.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

21. The largest direct cost for Scottish Children's Reporter Administration (SCRA) was originally noted in the previous financial memorandum to be for additional ICT licences supporting secure transmission of electronic information, estimated at £10k. This was to be covered under SCRA's existing grant-in-aid for 2020/21 of £25.16 million by the body recycling savings secured by virtue of deleted or deferred children's hearings business. As the overall impact of the pandemic has changed it was necessary to invest further resources into children's hearings infrastructure – including digital enhancements and a dedicated online 'front of house' offer to children and families. This extended to around £2 million over the last and current financial years. This additional resource was provided by Scottish Government and detailed above.

22. There have been additional costs for Children's Hearings Scotland (CHS) – around £0.4 million - supplying children's panel members electronic devices to allow virtual children's hearings to be held. Minimal communications and virtual training costs were associated with children's panel members and Area Support Team volunteers on the 2020 Act's changes to hearings composition and scheduling. All CHS volunteers have access to electronically-supported training resources through a dedicated Learning Academy and to practice and panel materials via recently-introduced and universally-available IT tools. CHS will cover these updates without any additional resource being required over and above their annual £4.6 million grant-in-aid from the Scottish Government. There has been savings relating to on-site training venues not being used and a considerable downturn in demand for travel and subsistence expenses.

23. The impact on the Scottish Courts and Tribunals Service expected to be broadly cost-neutral.

24. The expiry of these provisions will result in no additional costs on other bodies, individuals or business.

VULNERABLE ADULTS: CASES OF ADULTS WITH INCAPACITY (SECTION 4 AND SCHEDULE 3 PARAGRAPHS 11 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

25. These provisions effectively 'stop the clock' on the duration of guardianship orders and certificates authorising medical treatment for the period the emergency legislation is in force. They have, however, been suspended since 30 September 2020 since the conditions that existed when the provisions were brought in do not exist at present.

COSTS ON THE SCOTTISH ADMINISTRATION

26. The expiry of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

27. The expiry of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

28. The expiry of these provisions will result in no direct costs or savings to other bodies, individuals and businesses.

COMMUNITY ORDERS (SECTION 5 AND SCHEDULE 4 PARAGRAPHS 12; 14; 15(1) REFERENCE TO “AND DRUG TREATMENT AND TESTING ORDERS.”; 15(6) REFERENCE TO “OR DRUG TREATMENT AND TESTING ORDER” TO EXPIRE; 16 DEFINITION OF “DRUG TREATMENT AND TESTING ORDER”; DEFINITION OF “RELEVANT LOCAL AUTHORITY” REMOVING PARAGRAPH (B) AND DEFINITION OF “SPECIFIED PERIOD” OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

29. The provisions in paragraphs 12 and 14, relating to Community Payback Orders, and the provisions in paragraph 15, as far as they relate to Drug Treatment and Testing Orders, will be expired by the Bill on 30 September 2021. Details of the decision to expire these provisions can be found in the Policy Memorandum.

COSTS ON THE SCOTTISH ADMINISTRATION

30. The expiry of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

31. The expiry of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

32. The expiry of these provisions will result in no direct costs or savings to on other bodies, individuals and businesses.

FREEDOM OF INFORMATION (SECTION 7 AND SCHEDULE 6 PARAGRAPH 6 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

33. Where a Scottish public authority fails to comply with the timescales for responding to requests and requirements for review under the Freedom of Information (Scotland) Act 2002 (FOISA), this provision enables the Scottish Information Commissioner to decide that, notwithstanding the delay, the authority has complied with Part 1 of FOISA if certain conditions are met. This provision will expire on 30 September 2021.

COSTS ON THE SCOTTISH ADMINISTRATION

34. The Scottish Ministers and non-ministerial officeholders in the Scottish Administration are Scottish public authorities for the purposes of FOISA. They have to comply with the duties imposed by FOISA, principally in responding to requests for information. While authorities incur costs in complying with those duties, this provision does not impose additional duties on Scottish public authorities or make their existing duties more onerous. Accordingly, the expiry of this provision will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

35. Local authorities are similarly Scottish public authorities for the purposes of FOISA. For the reasons given above, the expiry of this provision will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

36. The bodies, persons and officeholders listed in schedule 1 or designated in an order made under section 5(1) of FOISA, and the publicly-owned companies (within the meaning of section 6) are all Scottish public authorities for the purposes of FOISA. Again, for the reasons given above, the expiry of this provision will result in no direct costs or savings to other Scottish public authorities.

37. The Scottish Information Commissioner has responsibility for enforcing compliance with FOISA. This includes dealing with appeals from applicants who are dissatisfied with the way a Scottish public authority has dealt with a request for information. The Commissioner has received a very small number of appeals where the use of the provision has been in question. Accordingly, the expiry of the provision is unlikely to have any significant effect on the number of appeals received by the Commissioner.

38. The Commissioner may issue guidance to authorities and requesters about the expiry of the provision to complement guidance about the impact of coronavirus that he has already issued. The Scottish Government takes the view that issuing guidance in this way is part of the general functions of the Commissioner (as set out in section 43 of FOISA) and that the Commissioner would periodically issue new guidance when required in any event.

39. Accordingly, the expiry of this provision will result in no direct costs or savings to the Scottish Information Commissioner.

DUTIES UNDER THE PUBLIC FINANCE AND ACCOUNTABILITY (SCOTLAND) ACT (SECTION 7 AND SCHEDULE 6, PARAGRAPH 15 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

40. These provisions allowed for amendment of the statutory deadlines for annual accounts as set by the Public Finance and Accountability Act 2000. The deadlines for such accounts were the 31 December 2020 and 31 December 2021 respectively. These provisions will expire on 30 September 2021.

COSTS ON THE SCOTTISH ADMINISTRATION

41. The expiry of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

42. The expiry of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

43. The expiry of these provisions will result in no direct costs or savings to other bodies, individuals and businesses.

SOCIAL SECURITY (SECTION 8 AND SCHEDULE 7 PARAGRAPH 1(B) AND 5 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

44. These provisions will expire on 31 September 2021. The provisions relaxed timescales which apply to the Scottish Ministers for making a redetermination, where normal timescales cannot be met for reasons related to coronavirus.

COSTS ON THE SCOTTISH ADMINISTRATION

45. The expiry of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

46. The expiry of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

47. The expiry of these provisions will result in no direct costs or savings to other bodies, individuals and businesses.

IRRITANCY CLAUSES IN COMMERCIAL LEASES: NON-PAYMENT OF RENT OR OTHER SUMS DUE (SECTION 8 AND SCHEDULE 7 PARAGRAPH 6 AND 7 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

48. The provisions will expire on 30 September 2021. The expiry of these temporary provisions will result in a return to the original legislative arrangements in place prior to the coronavirus pandemic.

COSTS ON THE SCOTTISH ADMINISTRATION

49. The expiry of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

50. The expiry of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

51. The expiry of these provisions will result in no direct costs or savings to other bodies, individuals and businesses.

STUDENT RESIDENTIAL TENANCY: TERMINATION BY TENANT (SCHEDULE 1: PARAGRAPH 3(2)(B)(I),), THE OPENING WORDS OF PARAGRAPH 3(2)(B)(II) AND PARAGRAPH 3(3) AND (4) OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020) – PROVISIONS CREATING A 7-DAY NOTICE PERIOD FOR TENANCIES ENTERED PRIOR TO 27 MAY 2020

52. These provisions will expire on 30 September 2021. They make provision in relation to tenancies for students in halls of residence and Purpose Built Student Accommodation (PBSA). Where a student has both signed a lease and occupied the accommodation before 27 May 2020, the student can terminate the lease on a notice period of 7 days. Students can only terminate tenancies for a reason relating to coronavirus.

COSTS ON THE SCOTTISH ADMINISTRATION

53. The expiry of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

54. The expiry of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

55. Given, what the Scottish Government believes to be the low number of students involved, the expiry of these provisions will result in those students who are no longer able to terminate their lease on seven days' notice having to give twenty-eight days' notice instead. This could involve those student incurring possible losses of between £126 and £504 when considering 1 to 4 weeks rental loss based on research which suggests that the UK average weekly rent per person in private halls is £126.

CORONAVIRUS CARER'S ALLOWANCE SUPPLEMENT (SECTION 2 AND SCHEDULE 1 PARAGRAPH 6 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

56. These provisions will expire on 30 September 2021. They had the effect of adding an additional £230.10 to awards of Carer's Allowance Supplement for the period from 1 April 2020 to 30 September 2020.

COSTS ON THE SCOTTISH ADMINISTRATION

57. The expiry of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

58. The expiry of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

59. The expiry of these provisions will result in no direct costs or savings to bodies, individuals and businesses.

CARE HOMES - FURTHER PROVISIONS (SECTION 2 AND SCHEDULE 1 PARAGRAPHS 22 AND 23 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

60. These provisions will expire on 30 September 2021. Paragraph 22 has the effect of requiring that the Social Care and Social Work Improvement Scotland (otherwise known as the Care Inspectorate) must lay a report on inspections before Parliament every two weeks during the emergency period. Paragraph 23 has the effect of introducing new duties about the reporting of deaths in care home services from or attributable to coronavirus.

COSTS ON THE SCOTTISH ADMINISTRATION

61. The expiry of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

62. The expiry of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

63. The expiry of these provisions will result in no direct costs or savings to bodies, individuals and businesses. However, the provisions require the compiling of data by care home providers and the Care Inspectorate for the purpose of providing reports to the Scottish Ministers and Parliament. Expiry of these provisions will result in minimal savings for the Care Inspectorate and care home providers.

MARRIAGE AND CIVIL PARTNERSHIP (SECTION 2 AND SCHEDULE 1 PARAGRAPH 24 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

64. This provision was suspended on 29 March 2021 and will expire on 30 September 2021. It requires the Scottish Ministers, in conjunction with the Registrar General of Births, Deaths and Marriages for Scotland, to take such steps as they consider necessary to ensure that the solemnisation of marriages and registration of civil partnerships continue to be available in Scotland whilst it is in force. It specifies that the steps taken must ensure that a person's right to

marry, which is protected by Article 12 of the European Convention on Human Rights (“ECHR”), is not disproportionately interfered with for reasons relating to coronavirus. It also requires the Scottish Ministers to report on the steps taken and on the number of marriages and civil partnerships that have taken place.

COSTS ON THE SCOTTISH ADMINISTRATION

65. The expiry of this provision will result in no direct costs to the Scottish Administration. The provision requires the Scottish Ministers to report on the steps taken to ensure the availability of marriage and civil partnership. There have been five reports laid before the Scottish Parliament and published on the Scottish Government website at a total cost of around £1300. Savings have therefore resulted from no longer publishing the required report since the suspension of the provision on 29 March 2021. There have also been minimal savings in terms of Scottish Government staff resource spent in preparing the reports.

COSTS ON LOCAL AUTHORITIES

66. The expiry of this provision will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

67. The expiry of this provision will result in no direct costs to bodies, individuals and businesses. The provision requires the Scottish Ministers to report on the number of marriages and civil partnerships taking place. There has been minimal savings for National Records of Scotland (NRS) in terms of staff resource spent in compiling that data since the suspension of the provision on 29 March 2021.

COSTS ASSOCIATED WITH THE MEASURES TO BE EXTENDED BY THE BILL

EVICTION FROM DWELLING-HOUSES (SECTION 2 AND SCHEDULE 1: PARAGRAPHS 1 AND 4 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

68. With the exception of anti-social behaviour, criminality, abandonment and vacant property eviction grounds, these provisions, as amended by regulations³, increase the notice period across eviction grounds in both the private and social rented sectors. In addition, for the private rented sector, the provisions amend all the eviction grounds a landlord can use to regain possession to make them discretionary. More details are available in the Policy Memorandum.

COSTS ON THE SCOTTISH ADMINISTRATION

Social Rented Sector

69. The extension of these provisions will result in no direct costs to the Scottish Administration in relation to the provisions for the social rented sector.

³ [The Coronavirus \(Scotland\) Act 2020 \(Eviction from Dwelling-houses\) \(Notice Periods\) Modification Regulations 2020](#)

Private Rented Sector

70. There may be additional costs to the Scottish Administration in relation to the costs for the First-Tier Tribunal for Scotland (Housing and Property Chamber) should there be an increase in the length of time to determine a private rented sector case.

71. However, last year saw a reduction in the number of eviction applications and hearings to the Housing and Property Chamber and therefore a reduction in overall costs. Should this continue, this will offset the impact of any additional financial costs from increased discretion. During 2019-20, the Housing and Property Chamber received 4,141 applications across ten jurisdictions, and 4168 applications were closed during the year. The vast majority (87%) of applications received fell within the new private rented sector jurisdiction. Almost half (42%) of all applications received were for eviction.

72. During 2020-21, the Housing and Property Chamber received 2,467 applications across ten jurisdictions, and 2743 applications were closed during the year. The vast majority (79%) of applications received fell within the new private rented sector jurisdiction. 31% of all applications received were for eviction and 34% of all applications received were for civil proceedings cases.

73. Funding to the Scottish Courts and Tribunals Service in respect of private rented sector cases was £2.583 million in 2018-19, £3.942 million in 2019-20 and £3.443 million in 2020-21.

74. The Scottish Government's view is that these provisions will not materially affect the cost of the eviction process. The main costs caused by these provisions are the potential for accumulated rent arrears due to not being able to carry out an eviction as set out below.

COSTS ON LOCAL AUTHORITIES

Social Rented Sector

75. The majority of local authorities have a role as a landlord. For the majority of the grounds for repossession it is not expected that extending the notice a landlord must give the tenant will have a significant cost implication for landlords. However, for landlords seeking to repossess the property due to rent arrears or where the tenant is causing damage to the property, there are likely to be additional costs for landlords in line with costs normally incurred when dealing with such cases.

76. Prior to the impact of COVID-19, rent arrears in the local authority sector had already been on an upward trend, with gross rent arrears (which includes arrears of both current and former tenants) rising from £62.8 million in March 2015 (equivalent to 5.9% of annual rent) to £88.0 million in March 2020 (equivalent to 7.3% of annual rent).⁴ Since then there has been a further increase in rent arrears, with gross rent arrears standing at £100.6 million in March 2021, equivalent to 8.2% of annual rent.⁵

⁴ [Scottish Housing Regulator, Charter data.](#)

⁵ [Scottish Housing Regulator, March 2021 dashboard.](#)

77. Over the six year period to 2019-20, the number of properties recovered by local authorities where they had obtained a decree for non-payment of rent ranged between 1,000 to 1,300 per annum.⁶ Since the imposition of restrictions due to the impact of Covid-19, there has been a sharp fall in the recovery of properties due to non-payment of rent.

Year	Number of properties recovered by local authorities having obtained decree for non-payment of rent ⁷
2014-15	1,037
2015-16	1,136
2016-17	1,282
2017-18	1,273
2018-19	1,308
2019-20	1,062
2020-21	5

78. While this Bill and previous legislation does not increase the likelihood of tenants being unable to pay their rent, it will delay action by local authority landlords to recover property where eviction becomes unavoidable. This may increase the total amount of rental income lost in these cases. However, not only should eviction always be a last resort, but it is also important to bear in mind that evidence collected from local authorities by Shelter Scotland indicates that eviction is a costly procedure for landlords, costing between £2,000 and £6,000 per case, in addition to the loss of rental income⁸. Thus any additional loss in income due to restrictions on landlords' ability to evict tenants must be seen in the light of the costs of evictions, and also the possibility that tenants on social housing waiting lists, who would replace current tenants unable to pay their rent, may also have been adversely affected by the economic impact of COVID-19, and thus may struggle to afford rental payments.

Private Rented Sector

79. It is not anticipated that the private rented sector provisions to protect tenants from evictions will impose additional costs on the local authorities, but they may assist in saving local authorities from costs relating to the provision of temporary accommodation by helping to reduce the number of private tenants who are at risk of homelessness.

80. The cost of providing temporary accommodation can be significant. For example, a 2018 study by Heriot-Watt University found that, across the five case study local authorities, the mean weekly cost of a temporary furnished flat (the type of accommodation most commonly used for temporary accommodation) was £318.94, with a median cost of £345.97.⁹ While the average weekly cost of emergency accommodation was lower (a mean of £284.54 and median of 256.48), the maximum weekly cost for emergency accommodation recorded in the case studies was a high

⁶ Note that this covers both properties where the tenants have been evicted, as well as properties where the tenants abandoned their home after a decree had been obtained.

⁷ Data for 2014-15 to 2018-19 is taken from the Scottish Housing Regulator, [Charter dataset](#). Data for 2020-21 is taken from the Scottish Housing Regulator, [Monthly COVID-19 dashboards](#). Note that this question was first collected in June 2020, and thus the data for 2020-21 covers the period from June 2020 to March 2021.

⁸ [Evictions by social landlords in Scotland 2016-2018.pdf](#) (ctfassets.net)

⁹ Table 9 in Watts, B, Littlewood, M, Blenkinsopp, J & Jackson, F (2018) [Temporary Accommodation in Scotland: Final Report](#).

as £1,370. There were 14,151 households in temporary accommodation as at 30 September 2020, an increase of 24% relative to 30 September 2019¹⁰. This increase can be attributed to two key reasons. First, the rise in the number of open cases increased overall demand for temporary accommodation. In addition, some households who had previously chosen not to take up temporary accommodation provided by the local authority, now required it as the alternative arrangements they had made were no longer viable due to the pandemic. This provision may help ease pressure on local authorities as evictions could increase the number of households who are homeless and the number of households in temporary accommodation.

81. Preventing tenants in the private rented sector from requiring local authorities to provide homelessness temporary accommodation therefore protects them from increased housing costs for this group.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

Social Rented Sector

82. In relation to Registered Social Landlords (RSLs), the type of costs that could be incurred is similar to local authority landlords. For the majority of the grounds for repossession it is not expected that extending the notice a landlord must give the tenant will have a significant cost implication for landlords. However, for landlords seeking to repossess the property due to rent arrears or where the tenant is causing damage to the property, there could be additional costs for landlords due to the extension in the notice period. As is the case for local authorities, there has been a sharp drop in the number of properties recovered following a decree for non-payment of rent, following the imposition of legislative restrictions on evictions.

Year	Number of properties recovered by RSLs having obtained decree for non-payment of rent ¹¹
2014-15	781
2015-16	736
2016-17	828
2017-18	840
2018-19	830
2019-20	697
2020-21	57

83. The impact of any increase in rent arrears could be more significant for an RSL than for a local authority because of the smaller size of these organisations and their primary focus on

¹⁰ [Homelessness in Scotland: update to 30 September 2020 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/homelessness-in-scotland-2020/pages/10.aspx)

¹¹ Data for 2014-15 to 2018-19 is taken from the Scottish Housing Regulator, [Charter dataset](#). Data for 2020-21 is taken from the Scottish Housing Regulator, [Monthly COVID-19 dashboards](#). Note that this question was first collected in June 2020, and thus the data for 2020-21 covers the period from June 2020 to March 2021.

housing. However, this concern is mitigated by the fact that trends in rent arrears have been more favourable in the RSL sector than in the local authority sector. Prior to the pandemic, gross rental arrears in the RSL sector increased from £51.8 million in March 2015 to £58.8 million in March 2020, an average growth rate of only 2.6% per annum over this five year period. As a result, the ratio of gross rental arrears to annual rental income actually declined slightly over this period, from 4.6% in March 2015 to 4.4% in March 2020. Since the pandemic, gross rental arrears have grown by a similar amount, up by 2.2% over the year to March 2021, to stand at £60.1 million, with the ratio of gross rental arrears to annual rental income remaining at 4.4%.

84. In relation to contractors, RSLs employ contractors to carry out maintenance and other essential services which are funded out of rental income. Loss of rental income could potentially affect an RSL's capacity to contract work. However, as the rent arrears figures set out above show, the amount of rent lost is unlikely to have a significant effect on contracts.

Private Rented Sector

85. In relation to private sector tenants, it is not anticipated that there will be any additional costs for tenants from extending the provision that increases the notice to leave period landlords must give a tenant when seeking to repossess the property.

86. In relation to private sector landlords, for the majority of the grounds for repossession, it is not expected that extending the notice a landlord must give the tenant will have a significant additional cost implication. However, for landlords seeking to repossess the property due to rent arrears or where the tenant is causing damage to the property, there are likely to be additional costs for landlords. These relate to loss of income from unpaid rent and increased repair costs to bring the property up to standard. The vast majority of registered landlords in Scotland have only one property and the average rent for a two bed property (the most common property size) is £689 a month (based on advertised rents). A range of financial support is available to support tenants and this should allow most tenants to continue paying their rent. However, where a tenant is unable or does not pay rent for the extended notice period, the landlord could incur a loss. As an illustration, the loss for an average two bed property could be up to £3,445, if the notice period would otherwise have been 28 days, or up to £2,609 if the notice period would otherwise have been 84 days.

87. Evidence on rent arrears in the private rented sector is limited and mixed. The Joseph Rowntree Foundation identified no sharp increase in rent arrears at June 2020, with fewer than one in ten private tenants estimated to be in arrears.¹² A separate analysis carried out by PayProp, based on the data that it holds from the processing of rent payments from tenants in Scotland, shows that the percentage of tenants in arrears increased at the start of the pandemic period from 5% in the quarter January to March 2020 up to 9% in April to June. Since then this proportion has remained relatively steady, although it has increased slightly in the latest quarter from 9% in October to December 2020 up to 10% in January to March 2021.¹³ Many landlords may have provided financial assistance to their tenants during the pandemic; 44% of landlords and agents responding to a Scottish Association of Landlords survey had given a rent discount to their tenants, equating

¹² Joseph Rowntree Foundation: [Government can provide a housing lifeline in the coming economic storm](#)

¹³ [PayProp UK Special Report on Arrears after 12 months of COVID-19, published May 2021](#)

to 11% of properties having had a rent reduction in place.¹⁴ However, Citizens Advice Scotland data for April to December 2020 show significantly increased proportions of housing and housing arrears advice sought relating to the private sector compared with the previous year, and a rise in advice sought on private rented sector harassment or illegal evictions.¹⁵

88. In relation to letting agents, there may be costs implications for letting agents relating to additional administration costs (which will depend on the size and processes of individual agents) plus loss of income where a tenant is unable, or unwilling, to pay their rent. The management fees agents charge are usually based on a percentage of the monthly rent paid. However, it is considered that the financial support available to tenants should allow most tenants to continue paying rent and therefore help to cover agents costs in the normal way.

89. In relation to contractors, landlords and letting agents employ contractors to carry out maintenance and other essential services which are usually funded out of rental income. Loss of rental income could potentially affect a landlord's capacity to contract work. However, it is considered that the financial support available to tenants should mean most tenants can pay their rent.

TEMPORARY EXTENSION OF MORATORIUMS ON DILIGENCE (SECTION 3 AND SCHEDULE 2: PARAGRAPHS 1 AND 4 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

90. These provisions extend the period of any new moratoria to a period of six months. This extension of the existing moratorium on diligence and bankruptcy from six weeks to six months prevents creditors from taking action against individuals who have financial difficulties, thus allowing those individuals time to find advice on how best to deal with their debts and, in current circumstances, also to recover from time-limited income shocks without having to take serious steps like applying for bankruptcy.

COSTS ON THE SCOTTISH ADMINISTRATION

91. The extension of these provisions will result in no direct costs or savings to the Scottish Administration. Costs to the Scottish Government in its role as a creditor are discussed below.

COSTS ON LOCAL AUTHORITIES

92. The extension of these provisions will result in minimal costs for local authorities. There may be some enhanced capacity to provide money and debt advice, but this is more likely to result in additional individuals being helped than in savings to the local authority. Local authorities' role as creditor – for example, in collecting unpaid council tax – is discussed below.

¹⁴ Survey of private landlords and agents by the Scottish Association of Landlords, carried out at the start of August 2020

¹⁵ Citizens Advice Scotland [Housing Data Q1-3 2020](#)

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

93. Many creditors have already announced extended forbearance towards those unable to make repayments due to financial difficulties arising from coronavirus such as the availability of three month mortgage holidays. Creditors following best practice and Financial Conduct Authority requirements for treating customers fairly are unlikely to face significant costs. If individuals are unable to meet repayments, taking formal court action against them is likely both to be costly for creditors, and may force individuals into bankruptcy (from which creditor returns are very low).

94. There is also evidence that those accessing debt advice will in the longer term make higher repayments. Figures quoted in the HM Treasury impact assessment for the breathing space proposals suggest debtors who are advised to enter either a debt management plan or an individual voluntary arrangement (the Scottish equivalent of which is the Protected Trust Deed) repay their creditors an additional £3,500, whilst debtors who merely take advice repay their creditors an additional £858. Figures provided by the Improvement Service in Scotland suggest that for local authorities, every pound invested in providing debt advice generates a further £4 in recoveries to that local authority.

COURTS AND TRIBUNALS: CONDUCT OF BUSINESS BY ELECTRONIC MEANS (SECTION 5 AND SCHEDULE 4: PARAGRAPHS 1-6 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

95. These provisions allow documents produced by a court or tribunal, or connected with criminal or civil proceedings, to be signed and transmitted electronically. This enables documents to be sent, served and lodged by means of email or other electronic means. They also provide that any participant in either criminal or civil proceedings can take part in any proceedings by way of live visual (television) or audio (telephone) link from any location. This extends to the ability to conduct fully audio or video-enabled procedural hearings, where no one is physically in the same place, or in a court or tribunal building. The provisions create a default position in which requirements for physical attendance at any court or tribunal hearings are suspended, except for trial diets, where the default is that a person will physically attend court. These presumptions can be overridden by the court or tribunal.

COSTS ON THE SCOTTISH ADMINISTRATION

96. Remote hearings and electronic processes have increased across all areas of criminal and civil business. The Lord President has stated the use of written submissions, the digital transmission of documents and the use of electronic signatures have enabled swift process changes which are necessary to operate court services efficiently.

97. The conduct of virtual courtroom trials has been piloted and criminal justice organisations are working together to develop a model for trials to be conducted virtually where appropriate. With the introduction of remote jury centres, the normal capacity of 16 trials per day for High Court evidence-led trials had been restored by November 2020 with robust public health measures and guidance in place to protect all court users, including jurors and staff. In addition, Sheriff and Jury trials are now back to pre-COVID levels through the use of remote jury centres, with eighteen Sheriff courts now running jury trials linked to these centres.

98. On 12 March 2021 a Practice Note was issued by Sheriff Principal Derek Pyle. This set out that from May 2021 the majority of domestic abuse summary trials in Aberdeen Sheriff Court will be conducted virtually, with only the accused person and their solicitor having to be present in the court premises. Sheriff Principal Pyle noted that this initiative would improve the experience for witnesses and ensure the rights of the accused are protected during trials. It will allow up to nine trials to take place each week, which would otherwise not be able to proceed because of coronavirus restrictions and also offers the opportunity for a national roll-out to provide much needed additional capacity. Police Scotland continue to support the initiative through the establishment of two remote sites in Aberdeen for giving evidence. Further work is being carried out to identify further sites to support any national roll out.

99. As of 14 May 2021 over 6,900 custody hearings have also been completed by remote and electronic methods.

100. Civil business continues to operate virtually and remotely, as has been the case throughout the pandemic - almost all civil court and tribunal business is now conducted online or by telephone with all documents in civil cases lodged electronically; all new summonses signetted electronically and evidential hearings for civil cases being held remotely. In the Sheriff Appeal Court almost all civil hearings are being conducted remotely. From 13 July 2020 the All-Scotland Sheriff Personal Injury Court (ASSPIC) transitioned to a remote basis. The first ASSPIC proof hearings (for hearing evidential cases remotely) commenced in early August and since late November Scotland's Sheriff civil courts are now conducting proofs, debates, evidential and Fatal Accident Inquiry (FAI) hearings virtually using the WebEx video platform. The first blended civil proof (proof using both in person and video evidence) has taken place. Arrangements are currently being made for further blended commercial proofs in the Court of Session and work continues on plans for civil jury trial resumption both in the Court of Session and ASSPIC.

101. The Scottish Courts and Tribunals Service (SCTS) has continued to develop functionality to enable documents to be submitted electronically. Most recently, the online portal was updated to allow documents in ordinary civil actions to be uploaded by solicitors directly to the SCTS.

102. The SCTS has carried out a significant amount of work to establish remote jury centres, and to enable virtual summary trials and virtual custody courts to take place. The Court of Session is conducting its business virtually, and the re-fixing of civil jury trials began and will be accommodated in the remote jury centres. Video conferencing functionality is available to deal with proofs, debates and fatal accident inquiries in the sheriff courts should the sheriff determine this is the appropriate method of accommodating an evidential hearing. Tribunals continue to successfully operate telephone and video hearings.

103. Capital and revenue outlay for necessary additional hardware (laptops, cameras and other remote devices) was incurred in the initial implementation of these new processes and further expenditure will be required to maintain and support further implementation as the use of digital processes increases.

104. The SCTS and the Crown Office and Procurator Fiscal Service (COPFS) will continue to incur software licencing costs, associated ongoing system maintenance and operational resource to manage bookings system for video links, with the majority of costs likely to fall to SCTS. These

costs are however difficult to quantify, as the operational reliance on these provisions will be dynamic and responsive to developments associated with the coronavirus pandemic.

105. Whilst there has been a temporary reduction in movement of prisoners, it is not possible to establish any savings taking account of the full circumstances to be managed during the period of coronavirus pandemic.

106. The legal defence community may incur costs to enable participation in remote court proceedings, although it is expected that many agents may already have access to existing IT used for video calling to clients that are on remand or serving sentences.

COSTS ON LOCAL AUTHORITIES

107. The extension of these provisions is not expected to place any notable costs on local authorities.

108. Where expert witnesses, such as social workers or medical examiners, are called upon for remote attendance there will be a need to receive electronic communications under Section 1 (Enabling electronic signature and transmission of documents). This costs of meeting this provision are expected to be broadly cost neutral; professional staff are likely to have routine access to corporate IT from home, or in the workplace where deemed essential.

109. Where section 3 (Attendance by electronic means) is extended to the workforce in their capacity as expert witnesses, it is expected that the costs will be minimal. Licences for remote participation are likely to be serviced by the SCTS, with attendees being able to join using their own existing IT and internet connections. There may be some additional outlay for headsets and other equipment, such as monitors, that are necessary to take part in remote court proceedings if these are directed by the court.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

110. Capital costs will be incurred by Police Scotland in relation to further expansion of the infrastructure to support enhanced police to court video linking for first appearances from custody. At present, these facilities are present within 21 custody suites with 11 used to address daily custody appearances. A further 4 are available to facilitate any appearances where the accused poses a potential COVID risk.

111. There are potential additional capital costs falling to related to enabling confidential solicitor to client video linking for interviews which take place both before and after the first appearance in court. At present there are 7 mobile devices in use across the estate with plans in place to purchase further devices incurring capital expenditure.

112. Police Scotland will continue to incur software licencing costs, associated ongoing system maintenance and operational resource to manage bookings system for video links.

113. These provisions have been utilised by Police Scotland through the ability to remotely crave warrants. The reduction in travel time, whilst realising small savings has also supported efficiencies in investigative processes.

114. There may be savings for solicitors in terms of paper, printing and postage costs as a result of the functionality added to the SCTS online portal which enables them to upload documents in ordinary civil actions directly to the SCTS.

FISCAL FINES (SECTION 5 AND SCHEDULE 4: PARAGRAPH 7 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

115. The provisions enable a wider range of cases to be dealt with by Fiscal Fine and, thereby, mitigate the impact of coronavirus on the justice system, at a time when no cases are currently proceeding before the Justice of the Peace Courts, and only a very small number of cases are able to proceed to trial by summary procedure in the Sheriff Court.

COSTS ON THE SCOTTISH ADMINISTRATION

116. In accordance with the revised policy guidance issued by the Lord Advocate in relation to fiscal fines, the increase in fine amounts enables alternative action to be taken in a wider range of cases, where such action is assessed as appropriate by prosecutors.

117. Prosecutors have been directed to first consider offering a direct measure, in particular a fiscal fine, in relation to appropriate cases which would otherwise have proceeded in the Justice of the Peace court.

118. In the period since 7 April 2020 up until 30 April 2021, 14,433 people or approximately 26% of individuals who received a first marking action for a Direct Measure (i.e. initial action following report from the police) were offered a fiscal fine. Since implementation of the revised scale on 7 April 2020, 451 people or 3% of individuals offered a fiscal fine have been issued a fine amount above the previous scale maximum of £300, up to £500.

119. Providing for the continued expansion of the use of alternatives to prosecution by extending the provisions has enabled a greater number of cases to be resolved without the need for court procedure and associated appearance at court. This has freed up the courts and prosecutors to deal with more serious cases and ease the burden on the courts during a time of significant resource pressure as a result of coronavirus.

120. Although it can be seen that the increase in the maximum level of a fiscal fine has allowed for alternative action to prosecution to be taken in a wider range of cases, the reduced costs arising from fewer court proceedings in practice and the associated savings to COPFS and the SCTS which would ordinarily be effected as a result of diverting a greater number of cases from prosecution are largely notional savings as the number of court cases has overall been limited by the significantly reduced operational capacity to deal with summary court proceedings as a result of the coronavirus pandemic.

COSTS ON LOCAL AUTHORITIES

121. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

122. The increase in the maximum fiscal fine that COPFS can offer as an alternative to prosecute will have a financial impact on those who choose to pay the fine rather than being prosecuted in the courts. Other than that, the extension of these provisions will result in no direct costs or savings to other bodies, individuals or businesses.

CASES BEGINNING WITH AN APPEARANCE FROM CUSTODY (SECTION 5 AND SCHEDULE 4: PARAGRAPHS 8 AND 9 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

123. This provision introduced Scotland-wide jurisdiction for sheriffs dealing with first appearances from police custody and any continuation of the case up until a not guilty plea is tendered (or full committal in petition proceedings). This has enabled custody proceedings to be heard in any sheriff court in Scotland by a sheriff of any sheriffdom no matter where the alleged offence took place during the coronavirus pandemic.

COSTS ON THE SCOTTISH ADMINISTRATION

Scottish Courts and Tribunals Service (SCTS)

124. There are no anticipated quantifiable costs or savings for the SCTS as a result of extending sheriffs' jurisdiction throughout Scotland for the purpose of dealing with an individual appearing from police custody. The provision simply redistributes the cases to which it applies across the country.

COSTS ON LOCAL AUTHORITIES

125. The extension of this provision will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

126. The extension of this provision will result in no direct costs or savings to other bodies, individuals or businesses.

Police Scotland

127. The move to a new national jurisdiction for dealing with appearances from custody has allowed Police Scotland to operate a smaller number of centralised police custody suites across Scotland in response to coronavirus.

128. The measure has had a financial impact on Police Scotland, both in terms of additional costs and some areas of savings.

129. This measure has enabled Police Scotland to restrict unnecessary movement of people in the justice system via custody procedures and reduce the requirement to move prisoners around the country to attend court proceedings, potentially generating some savings.

130. There are also some additional costs to Police Scotland arising from the provision.

131. Some of those additional costs reflect the need to coordinate and facilitate the safe movement of prisoners within the centralised custody suite setting to the rooms with video-links to the court (where there is virtual court appearance before a court which only has jurisdiction because of these provisions) as well as the associated administrative processes.

132. As people are held in a smaller number of designated police custody suites (as facilitated by these jurisdictional provisions), they may also require to travel greater distances than they ordinarily would to the centralised custody suite prior to their appearance in court. An example is where an individual is arrested in, for illustrative purposes, Stonehaven for a crime allegedly committed there and is then taken to a centralised custody facility in Dundee, for appearance the next day at Dundee Sheriff Court in person or by live link. Where appearance is by live link, in these circumstances there is an additional cost to Police Scotland relative to the additional care and welfare of people being held in police custody for a longer period, including the provision of meals.

133. It is not possible to provide a specific estimate of the overall impact of these savings and costs falling on Police Scotland. The exact costs/saving impact depends on a number of uncertainties relating to the number of accused and where accused people are held. However, the overall cost impact is expected to be relatively cost neutral.

134. The extension of this provision will result in no other direct costs or savings to other bodies, individuals or businesses.

EXTENSION OF TIME LIMITS (SECTION 5 AND SCHEDULE 4: PARAGRAPH 10 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

135. The provision suspends certain time limits contained in the Criminal Procedure (Scotland) Act 1995 and has the effect of increasing the maximum time period that an accused person can be held on remand prior to trial, together with other time limits for progressing a criminal case including the maximum time before an indictment requires to be served on an accused person who is in custody and the maximum wait prior to trial where the accused is not in custody. More detail can be found in the Policy Memorandum.

COSTS ON THE SCOTTISH ADMINISTRATION

COPFS

136. There are no specific costs arising for COPFS. Generally, the majority of costs arising to COPFS relates to staff time incurred in the preparation of cases for indictment and trial. These cases will continue to be prepared. The provision has provided for time savings to COPFS during the suspension period as a result of, for example reduced staff time that would otherwise have been

incurred making applications to the court to extend time limits in individual cases, attendance at court, etc.

SCTS

137. These provisions have provided for time savings to SCTS during the suspension period as a result of reduced costs that would otherwise have been incurred determining applications by COPFS to extend time limits in individual cases.

Scottish Prison Service (SPS)

138. The reduced capacity of the courts to process criminal cases as a result of the coronavirus pandemic has had a significant impact on SPS arising from its impact on the prison population. The overall prison population is lower now (May 2021) than prior to the coronavirus pandemic (March 2020). However, this reduction relates entirely to the post-conviction sentenced population with the pre-conviction non-sentenced population (the remand population) increasing.

139. The costs arising from the increase in the remand population will not necessarily have arisen directly from the suspension of statutory time limits applying in criminal cases. This is because under pre-existing law, it is possible for the parties to apply for these time limits to be extended on cause shown. As such, if there had been no provision for the suspension of statutory time limits in all criminal cases, it is likely that in many cases, the time limits would have been extended on a case-by-case basis by the courts, reflecting the impact of the pandemic on the justice system while maintaining the ability for justice to be carried out in individual cases.

140. The increased time that accused people are spending on remand as a result of the backlog of court cases is one of many challenges that SPS have experienced over the past year.

141. Where an individual has been held on remand for a lengthy period who otherwise would have been handed a custodial sentence, this may cause SPS operational difficulties. The needs of remand prisoners can be quite different to those of sentenced prisoners. This is especially the case in the context of the pandemic due to the fact that the SPS estate needed to be reconfigured to meet the needs of a rising remand population, albeit as part of an overall reduced prison population.

142. Furthermore any individuals held on lengthy remand stays who are found not guilty or given a non-custodial sentence would represent a considerable additional cost as well as having a significant negative impact on the individual in question. This arises as part of the normal operation of the justice system, but with increased numbers held on remand for longer periods the impact is potentially greater.

143. Within this broad context, it is not possible to say with any degree of certainty what the impact of suspension of time limits has been on the prison population. As noted above, had these time limits not been suspended, the courts may have granted extensions in a large number of cases on a case-by-case basis.

144. Furthermore, the backlog of cases involving people being held on remand is only one of several factors determining the remand population. Decisions of the court in individual cases, the

mix of crimes being progressed through the justice system, the numbers of those held on remand seeking a review of their situation (as permitted through general bail and remand law) as well as the numbers of the accused persons given bail (and the propensity of that population to breach the terms of their bail) will all have significant impacts on the numbers held in remand.

145. Various policy and operational initiatives across the justice system have aimed to reduce the use of remand where appropriate. Since September 2020 onwards, the flow of individuals into remand slowed substantially, with the total remand population being stable since then in a range from 1,900 to 2,000. The combined impact of these factors obscures any direct impact that extending time limits has had on remand populations.

146. The backlog of cases arising from the coronavirus pandemic will also have had an impact on the size of the sentenced population. Had the courts been operating at their pre-Covid-19 levels, a significant proportion of the remand population have received a custodial sentence. However, the sentenced population has fallen significantly as a result of restrictions on court activity.

147. For these reasons, the impact that any lengthy remand stays on SPS, and the extent to which provisions extending time limits have directly contributed to this, is impossible to assess. The total size of the prison population is lower than immediately prior to the coronavirus pandemic, albeit with an increasing proportion of individuals held on remand. However, the backlog of cases arising from the coronavirus pandemic has led to lengthy remand stays that otherwise wouldn't have occurred and notwithstanding the challenges of separately assessing the impact that time-bars will have had on the remand population, it is clear that an increasing remand population have caused operational pressures for SPS.

COSTS ON LOCAL AUTHORITIES

148. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

149. The extension of these provisions will result in no direct costs or savings to other bodies, individuals and businesses.

EXCEPTIONS TO THE RULE THAT HEARSAY EVIDENCE IS INADMISSIBLE (SECTION 5 AND SCHEDULE 4: PARAGRAPH 11 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

150. This provision should be considered along with the provisions which allow witnesses to give evidence remotely. The provisions, taken together, provide flexibility as regards the way in which evidence can be introduced during the coronavirus pandemic. The provision under schedule 4, paragraph 11 of the Coronavirus (Scotland) Act 2020 allows evidence by statement where there would be a particular risk to the person's wellbeing attributable to coronavirus or a particular risk of transmitting coronavirus to others if they were to physically attend the trial and where it is not reasonably practicable for the person to give evidence in any other competent manner.

COSTS ON THE SCOTTISH ADMINISTRATION

151. The use of section 259 of the Criminal Procedure (Scotland) Act 1995 which provides for exceptions to the inadmissibility of hearsay evidence, is a secondary option that may be applied when a witness cannot attend court to give evidence in person because of a particular risk attributable to coronavirus and cannot give evidence remotely by any other means, such as using a live video link. Statistics on the use of this provision are not available though we understand its use has been relatively limited.

152. Where this provision is used, COPFS will incur some additional costs in relation to the additional staff time required to draft and submit written applications in terms of section 259. However, this is offset by small savings for COPFS in relation to witness expenses. If a witness's statement is used as their evidence in terms of section 259, COPFS will not require to reimburse provide travel and subsistence costs.

COSTS ON LOCAL AUTHORITIES

153. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

154. The extension of these provisions will result in no direct costs or savings to other bodies, individuals or businesses.

COMMUNITY ORDERS (SECTION 5 AND SCHEDULE 4: PARAGRAPHS 13, 15 (AS FAR AS IT RELATES TO COMMUNITY PAYBACK ORDERS) AND 16 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

155. The provisions in paragraph 13 provide that the unpaid work or other activity requirement in Community Payback Orders must be completed within 12 months, from the date when the order was imposed, (or such longer period that the court specifies in the order). The provisions in paragraph 15 allow for regulations to be made by Scottish Ministers to vary or revoke requirements imposed in Community Payback Orders. The provisions in paragraph 16 are interpretive and are applicable to the powers in paragraph 15, some of which are proposed for extension. More details are available in the Policy Memorandum.

COSTS ON THE SCOTTISH ADMINISTRATION

156. The extension of these provisions will result in no direct costs or savings to the Scottish Administration.

157. The provisions mitigate risk to the SCTS and may prevent additional breach or review hearings being needed in relation to community payback orders with unpaid work or other activity requirements which cannot be completed within specified timescales or if capacity issues mean that individuals cannot complete orders through no fault of their own.

158. As with the potential impact identified in relation to SCTS, there is a possibility of increased workload immediately post-crisis for organisations linked to the delivery and oversight of community orders, including third sector bodies. It is not possible to quantify this at present.

COSTS ON LOCAL AUTHORITIES

159. The extension of these provisions will result in no direct costs or savings to local authorities. However, there would be additional costs if the provisions were not made. If local authorities do not have at least 12 months to deliver unpaid work or other activity, capacity would have to increase further to help ensure orders could be completed, which may not be possible.

160. The power to vary orders would not increase costs to local authorities and while there are no plans to use the power, it would be subject to affirmative procedure and specific impact assessments including a Business and Regulatory Impact Assessment would be prepared.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

161. The extension of these provisions will result in no direct costs or savings to other bodies, individuals and businesses.

PAROLE BOARD (SECTION 5 AND SCHEDULE 4: PARAGRAPHS 17 AND 18 (1) AND (3) OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

162. The provisions provide for the Chair of the Parole Board to delegate their functions to another member of the Parole Board, should they become incapacitated for any reason.

163. The provisions also allow for parole hearings to continue by video/teleconference and avoid postponements.

COSTS ON THE SCOTTISH ADMINISTRATION

164. The extension of these provisions will result in no direct costs or savings to the Scottish Administration. The Parole Board budget for 2020-21 was £2.794 million with actual spend for the same period totalling £2.722 million. There were also no additional costs incurred by the Board in respect of payment of fees to members self-isolating or ill and unable to carry out their functions. The Scottish Government agreed to meet any additional 'hardship' costs due to illness or incapacity of members, however, to date this has not been required.

COSTS ON LOCAL AUTHORITIES

165. The extension of these provisions will result in no direct costs to local authorities.

166. Criminal Justice social workers would normally attend an oral hearing in person at the prison where the person is being detained. This means social workers have been able to participate by live link. This may have resulted in some modest savings incurred through reduced travel and subsistence but it is not possible to calculate what these savings might be.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

167. These measures have an impact on the Parole Board for Scotland. The Parole Board has an annual budget of £2.794 million and the actual spend on Parole Board Part IV hearings (Tribunals) in 2020-21 to end of March was £2.722 million.

168. There were modest costs associated with members of the Board working remotely in terms of additional equipment which has had to be purchased to allow them to work effectively. This amounted to around £8,000 one-off cost and covered monitors, headsets and increased data usage on phones/Wi-Fi.

169. There were 1196 (1031 2019-20) tribunal hearings from 1 April 2020 to 5 March 2021. The provisions allowed the entirety of the proceedings of the Board to be carried out by audio-visual link or by phone. This has resulted in a reduction in the number of face to face oral hearings which appears to have resulted in some modest savings being made of around £72,000 in the period 2020-21.

RELEASE OF PRISONERS (SECTION 5 AND SCHEDULE 4: PARAGRAPHS 19 AND 20 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

170. This provision allows that the Scottish Ministers may, by regulations, provide that a person who falls within a class of persons specified in the legislation is to be released from prison early.

COSTS ON THE SCOTTISH ADMINISTRATION

171. During May-June 2020, the Scottish Government instructed the early release of a limited number of prisoners under the powers established in the 2020 Act. The specific criteria of the process were set out in The Release of Prisoners (Coronavirus) (Scotland) Regulations 2020 for the approval of the Scottish Parliament, leading to the release of 348 prisoners in the 28 days starting on 4 May 2020. The regulations defining the scope of the release process were developed by the Scottish Government to deliver a reduction in the prison population that was proportionate to the challenges faced by the Scottish Prison Service at that time, whilst protecting public safety, and being deliverable in a timely fashion utilising the resources available. The process was planned and implemented in co-ordination with the SPS, Social Work Scotland, COSLA, Association of Local Authority Chief Housing Officers, NHS Boards, third sector organisations, and other partners. The release process was completed in full within the period specified in the Regulations.

172. All these prisoners had been serving sentences of 18 months or less, and all were within 90 days of their scheduled date of release. Individuals who were subject to long sentences, or post-release supervision orders were excluded. As a result, there was no requirement for Justice Social Work offices to undertake any statutory post-release supervision of a participating prisoner. 450 individuals had their eligibility and suitability for early release assessed, and 348 individuals were released early under this provision. This is equivalent to an increase of circa 87 extra releases a week and, which compares to the average weekly releases from custody of circa 160 a week (for the 1st quarter of 2021/2022 – 13-week period) distributed amongst local authorities across Scotland. This short term increase in caseload was followed by a reduction in release caseload over the following two months (when those individuals would have otherwise been released). It

should also be noted that the scheduled release of other prisoners continued as normal throughout this period.

173. SPS staff undertook the necessary review of each prisoner's case, which required a moderate expansion of the standard processes required to prepare any prisoner for release. The SPS provided each local authority with lists of all prisoners from their area that were under consideration for early release, as an expansion of pre-existing data sharing agreements. Where appropriate SPS staff liaised with local authority contacts to assess any possible problems arising from the proposed release, before a final decision was made on the release of each individual. Depending on the individual's needs, local authority housing staff may have been required to examine and address any housing needs of the prisoners in time for the earlier release date (as would be the case for any prisoner scheduled for release without accommodation). Prison healthcare staff liaised with community based healthcare services regarding the specific needs of any individual being released early – again in the same manner as would be done for a prisoner being released as normal. The SPS also notified national third sector throughcare services where any of their clients were being released early, so they could adjust any plans to provide support.

174. As such, the early release process will have brought forward a number of activities that participating organisations would have been expected to provide at the prisoners' scheduled release date, rather than generating entirely new activities.

175. The Scottish Government has not instructed a further use of the early release power, but has consistently indicated that the option would remain under consideration, in dialogue with the SPS and other stakeholders – and that it could still be deployed if conditions justified it in the future. The scope and parameters of any future release process would have to be devised in response to the circumstances at that time, to provide the necessary effect on conditions within prisons. As a result, a potential future release process may replicate some of the regulations and arrangements applied in May 2020, but that would be very much dependent on the specific circumstances that were being faced in prisons at that time. In addition, in May 2020 the operation of prisons, statutory services and third sector organisations were substantially disrupted by the lockdown conditions, which had significant effects on the availability of staff and other resources for the participating organisations at that time. The potential wider circumstances and capacity of other partners in the release process is therefore also an unknown.

176. In the light of the above, an assessment of the previous early release process can only provide limited evidence of the financial impact of a potential future application of these powers. However, certain costs and savings to the Scottish Administration could be derived from a future early release process, which would fall into the following main areas:

- SPS may incur additional staff costs for processing additional releases. This would be dependent on the form release might take and the process used, which would affect the number of additional hours of staff time required and may increase payment rates for these hours (rather than requiring new staff to be appointed). This could be partially offset by freeing up staff resource in subsequent weeks as a result of there being less release activity underway.
- The costs associated with routine prisoner release are already accounted for within the SPS budget. However, depending on the numbers that need to be processed, the timeframe for doing this and the associated process including risk assessment, staff

may be required to work in excess of their contracted hours. It is not possible at this stage to predict in any detail what this might be. In addition to their hourly rate, this work will attract additional payments of between of 30% and 60% of their hourly rate (in practice this ranges from £16.64 to £74.40).

- SPS would anticipate a reduction in direct costs from a reduction in prisoner numbers. The indicative savings which SPS have modelled are approximately £7 per prisoner, per day. The figure of £7 comprises of a number of different expenses, including not having to provide food for a prisoner or pay wages to prisoners. It is recognised that these are far lower than the total costs of imprisonment, as most of these savings could not be recovered due to the fixed nature of many costs.
- There are some potential savings in relation to electronic monitoring. It is assumed that some short sentence prisoners who would have applied to receive Home Detention Curfew (with associated electronic monitoring costs) would receive emergency release without electronic monitoring. The savings from electronic monitoring would be influenced by the size of this cohort of people as well as unit costs for electronic monitoring. Current contract costs (which may be revised) are an average daily cost of approximately £8 per monitored individual, with a one-off charge of £130 for the combined activities of install/de-install.

177. As discussed above, in the May 2020 process prisoners subject to long sentences or post-release supervision were excluded. While it is reasonable to expect that any future early release process would maintain this approach, it is not a pre-requisite. If such prisoners were to be included in a future process, there would be potential costs from the electronic monitoring that would be applicable to such individuals, depending on the potential cohort and length of added time on monitoring.

178. Taken together, there are possible costs and savings for conducting additional assessments, reductions in direct prison costs and both potential costs and savings for electronic monitoring. The majority of the impact is in moving around costs that will already need to be incurred in support of release, therefore current analysis cannot reliably conclude a net cost or saving to the Scottish Administration. Furthermore, any prison savings are relatively small in the context of the wider SPS budget and, given the continuing pressure on prison operations due to the coronavirus, any savings may not necessarily be realised. The purpose of this legislation is to help give the system the flexibility it needs to respond to a crisis. It is acknowledged that the costs of that crisis will dwarf any - relatively minor – releasable savings that can be made as a result of these measures.

COSTS ON LOCAL AUTHORITIES

179. Potential costs and savings to local authorities led community justice provision will be based upon the effect that an early release process would have on the delivery of statutory duties of local authorities. The activities themselves would be required to be delivered at whatever point the relevant prisoner was released. As such, the effect of an early release process would be to bring any related activity forward in time (and any additional costs resulting in having to manage an additional workload during the process), rather than the creation of new workload, and would have a secondary effect of reducing demand for such activity in the subsequent months (when the prisoners would have otherwise been released).

- Costs for any increase in demand on local authorities for the delivery of voluntary throughcare support to help short sentence prisoners reintegrate after release from prison. The scale of this change will vary widely, given that only a small minority of prison leavers choose to request this support (1700 in 2018-19 for the whole of Scotland), and the content of the services provided will vary between local authorities. Local authority-supported voluntary throughcare activity is included in the activities funded by the Scottish Government under the annual community justice budget allocation. The decision on what and how much each local authority spends is for the local authority to decide. There is no central account of the budget applied by which area to deliver this service. Given the variation in service delivery, and the lack of separate budget arrangements, it is not possible to anticipate a potential cost.
- As noted above, in the May 2020 process, prisoners subject to long sentences or post-release supervision were excluded. While it is reasonable to expect that any future early release process would maintain this approach, it is not a pre-requisite, and hypothetically a broader release process could impact on resources required for the statutory supervision of long term prisoners, and those on post-release orders. If such circumstances were to occur, this might impact on staff resources (such as overtime work or redeployment of staff) to undertake assessment and planning for prisoners' release, budget for any activity in support of additional electronic monitoring, and any wider resource for supervision in the community. The scale of any impact would depend on the nature and size of the cohort being released.
- Beyond any statutory activity required of justice social work upon the release of specific prisoners, in certain cases there may be additional social work activity required on the release of an individual from prison, such as addressing any concerns over domestic abuse or child protection. Such cases will need to be co-ordinated with the relevant prison and community based services, and an early release process would require SPS and partner agencies to ensure appropriate plans and activities were adjusted accordingly.

180. Overall, it is expected that emergency release would be expected to result in a cost pressure on local authorities and not a potential area for releasable cash savings, though it is not currently possible to estimate the scale of this potential impact.

181. In 2021-22 around £117 million has been invested to support justice social work services to deliver statutory work and to meet local priorities aimed at reducing reoffending through justice social work and specialist third sector services. In addition to this a further £2.5 million which was agreed in the draft budget for community justice services, which will be allocated to local authorities for commissioning third sector services to support recovery efforts and help deal with the backlog in the system.

182. To support recovery from the pandemic a total of £50 million has been invested 2021-22 which will help establish additional court capacity and to contribute to the wider associated costs across the justice system, including community justice, prisons, and legal aid. From this investment a total of £11.8 million has been allocated for use by justice social work services in directly addressing the impact of the pandemic and support recovery work. This is new investment.

183. In April 2020, the funding allocated to justice social work was increased by £4.0 million, specifically to support diversion from prosecution, bail supervision, and structured deferred sentences and this continues. Flexibility however was provided to enable local authorities to use this to respond to pressures arising from the COVID-19 pandemic. This flexibility also extended to a number of justice third sector organisations directly funded by Scottish Government. From April 2019, £1.65 million of demand led funding was invested over 3 years to help encourage further engagement in bail supervision across local authority areas. This is in addition to the above £117 million of funding, with local authorities attracting resources if they increase the total number of bail supervision cases in year, from a baseline of 2018-19. At the end of 2019-20 a total of £433,200 was claimed from this funding at financial year end.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

Costs incurred by UK Government Departments

184. A high proportion of all prisoners will claim state benefits once they are released, and are more likely to be in severe poverty and reliant on benefits than the general population – including those that would be released from custody due to an early prisoner release process. As a result, it is likely that any cohort of prisoners that are released early will produce a cost to benefits services for the period between the dates of those prisoners release, and their initial scheduled release dates. Given the separation between the data held by prison services, and benefits services, it is not practicable to calculate the specific cost of a particular cohort of individuals. (As discussed above, there would also be a saving to Prison Service resources given they would not be supporting this cohort for the same period.)

185. Furthermore, it is not possible to reasonably estimate the number of prisoners from any potential future early release cohort who would claim benefits in these circumstances, or how many would require additional assistance to enrol in Universal Credit. As noted above, any increased demand for benefits payments would depend on the specific cohort selected for release – and resource cost for activity related to an early release process would be balanced by a moderate reduction in activity in the subsequent months, when those individuals would have been released.

186. Prisoners who are in custody are not entitled to claim state benefits, and are not permitted to submit claims in advance of their release. Individuals can only make an application after release, which can lead to a waiting period before benefits can be paid, although DWP will offer an advance of the individual's first payment if necessary. DWP staff have had to withdraw any prison-based staff for health protection reasons, removing their ability to offer preparatory support. (At time of writing, DWP and SPS are in discussions to consider when DWP staff can safely return to work within prisons – but any change will depend on health guidelines.) A dedicated helpline was set up by DWP to provide prison leavers with additional assistance.

187. Prisoners who have been serving sentences of several years are less likely to have received Universal Credit (UC) before, and will need help to transition from legacy benefits to the UC system – increasing the administrative burden for DWP. Therefore, there will be some financial impact on the DWP and HMRC associated with providing benefits (such as UC) to released individuals and the administration costs associated with this (such as assessing eligibility), at a time when the DWP system is under extreme pressure from the volume of new claims being made.

Costs Associated with Third Sector support for prison leavers

188. There are a variety of third sector organisations that deliver services which offer support to individuals on release from prison, either as a specific service, or by opening up general support services to engage with prison leavers.

189. The Scottish Government funds two national offender throughcare services (“New Routes PSP” for male short-sentence prisoners, “Shine PSP” for women prisoners, women remand prisoners and women on community sentences), which have a specific remit to offer individuals leaving prison a flexible service starting whilst in custody, and continuing after release for around 6 months. These services are delivered by a network of third sector organisations, delivering a standardised process. (The Scottish Government issues annual funding to these two services (plus a third specialist service), at a total of £3.7 million per year. These services have previously supported c2,000 individuals per year. The cost of delivering this form of throughcare support varies substantially, depending on the circumstances of each individual. A basic unit cost would be around £2,200 per person, based on 6 months personalised support.)

190. The delivery of this type of service was heavily impacted by coronavirus restrictions – with workers being unable to enter prisons, and unable to meet their service users in person in the community. Many organisations, including the third sector throughcare services noted above, have had to restructure their services to maximise phone, text and email contact, and reduce any personal contact to emergency cases only. Services have also had to adjust to significant changes in the volume of individuals being referred to these services across the past year (reflecting the changing levels of the prison population, and changes in the operation of justice social work services).

191. In the May 2020 early release process, the SPS utilised their existing data-sharing and co-ordination links with these services, as well as with local authorities, to inform them which prisoners would be granted early release. This enabled services to adjust plans to engage with prisoners signed up for their services. The early release process does not alter the overall number of individuals eligible for support from such services, but will require the service to be flexible enough to deal with the short-term increase in activity. For the national PSP services discussed here, any budget or resource impact arising from the early release process was accommodated within their annual grant funding allocated by the Scottish Government.

LEGAL AID (SECTION 5 AND SCHEDULE 4: PARAGRAPHS 21 – 23 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

192. These provisions allow for a reduction of the level of scrutiny required before interim payment may be made, enhanced powers of recovery in the event of overpayments resulting from interim payments, and removal of conditions for counsel to be able to apply for interim payment.

COSTS ON THE SCOTTISH ADMINISTRATION

193. The total Legal Aid budget for administration and the Legal Aid Fund is £138 million, and expenditure is spread across a financial year. The provisions in the Bill will allow for earlier access to payment rather than payments at the end of a case. This will change the profile of expenditure

across the year, but will not increase the gross expenditure. On this basis, the extension of these provisions is expected to result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

194. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

195. The extension of these provisions will result in no direct costs or savings to other bodies, individuals and businesses.

ALCOHOL LICENSING (SECTION 6 AND SCHEDULE 5 OF THE CORONAVIRUS (SCOTLAND) ACT 2020) AND LICENSING OTHER THAN ALCOHOL LICENSING (SECTION 7 AND SCHEDULE 6: PARAGRAPH 1 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

196. These provisions continue to allow Licensing Boards to exercise discretion so as not to hold in person hearings and to instead provide alternative means for persons to be heard by telephone, video-conferencing or by written communication (including electronic communication). They ensure that premises' licences do not cease to have effect by virtue of a premises temporarily closing for a reason relating to coronavirus, and provide flexibility to both Licensing Boards and personal licence holders to enable the alcohol licensing regime to continue to function, including modifying procedural matters relating to the membership and other administrative matters for Licensing Boards.

197. These provisions also provide for different timescales for completion of training and notification of licensing applications (for comment) to licensing standards officers.

198. They also modify the operation of the civil licensing provisions in the Civic Government (Scotland) Act 1982 and the Civic Government (Scotland) Act 1982 (Licensing of Skin Piercing and Tattooing) Order 2006 in order to allow for as much flexibility as possible in responding to the strict demands of existing licensing laws during the coronavirus pandemic.

COSTS ON THE SCOTTISH ADMINISTRATION

199. The extension of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

200. For alcohol licensing, there are Licensing Boards who are empowered under the Licensing (Scotland) Act 2005 to carry out certain functions and make decisions in relation to the sale and supply of alcohol. Licensing Boards are supported in their operation by local authorities. Licensing Boards are made up of elected Councillors from the relevant local authority but are independent public bodies separate from the local authority. The licensing system is intended to be self-

financing with the costs of the system met by fees paid by users of the system through, for example, fees for obtaining a personal alcohol licence.

201. The self-financing approach also applies for Civic Government Licensing regimes covered by the Civic Government (Scotland) Act 1982 with the day to day responsibility for the administration of the licensing regime resting with individual licensing authorities, in effect the local authorities, and give local authorities considerable scope to determine whether and how these apply, consider individual applications and whether to attach conditions to licences. This allows licensing committees and councillors to take local views and concerns into account.

202. All local authorities have wide discretion to determine appropriate licensing arrangements according to their own legal advice, and it is entirely at their discretion which types of entertainment they wish to licence.

203. Prior to the enactment of the Coronavirus (Scotland) Act 2020, these licensing regimes contained a considerable number of strict timescales and deadlines with little or no discretion available to the relevant authorities if they are not adhered to. The overall intent of the package of the licensing provisions is to build in new discretion and flexibility for Licensing Boards/authorities which will enable the licensing regimes to continue to function in an efficient and effective manner.

204. Due to the lack of readily available information held by Licensing Board/licensing authorities on specific costs/savings for the whole package of licensing provisions, it is not possible to provide specific estimates of the full cost impact on each of the 32 Licensing Boards and 32 licensing authorities and it is therefore challenging to attempt to derive any meaningful financial assessment here, but the Scottish Government is aware of some limited feedback from a Licensing Board clerks that suggests, broadly speaking, the cost impact of the licensing provisions is likely to be cost neutral

205. With this in mind and comparing the effect of the provisions against not making the relevant changes to licensing law, it is considered there will be some efficiencies created for Boards and users of the licensing system. The extent of these efficiencies continues to depend on a variety of factors such as the way in which Licensing Boards decide to use the continued flexibility and discretion the provisions provide and the number of licensing decisions, hearings etc. where the provisions may be relevant. Feedback from licensing stakeholders generally welcomes the opportunity for further extension of provisions with Licensing Boards generally welcoming the continued discretion and flexibility.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

206. Individuals and businesses who are users of the licensing system e.g. a person that owns a pub, a supermarket that sells alcohol etc. will continue to benefit from the new flexibility and discretion that the provisions offer. In particular, they will benefit from continued flexibility arising in respect of meeting certain statutory requirements falling on them e.g. an extension to the period to undertake refresher training in respect of alcohol licensing, further time to arrange for a new premises manager if a previous manager is no longer undertaking the role etc.

This document relates to the Coronavirus (Extension and Expiry) (Scotland) Bill (SP Bill 1) as introduced in the Scottish Parliament on 18 June 2021

207. Individuals and businesses will also continue to benefit from Licensing Boards/authorities having discretion and flexibility. This is because fewer individuals (and businesses who hold licences or have an interest in employees who hold licences) will lose their licences as a result of failing to be able to adhere to certain licensing rules than would be the case if no changes were being made.

208. As with estimating efficiencies for Licensing Boards/authorities, the extent of these efficiencies will depend on a variety of factors such as the way in which Licensing Boards/authorities decide to use the flexibility and discretion the provisions provide and the number of licensing decisions, hearings etc. where the provisions may be relevant.

209. These provisions also provide for flexibility in timescales for Police Scotland to respond to a notice from the Licensing Board.

FREEDOM OF INFORMATION (FOI) (SECTION 7 AND SCHEDULE 6: PARAGRAPHS 2 AND 7 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

210. This provision enables the Scottish Information Commissioner and Scottish public authorities which are subject to the Freedom of Information (Scotland) Act 2002 (FOISA) to issue formal notices electronically. Prior to the Coronavirus (Scotland) Act 2020, FOISA provided that these notices required to be delivered or posted to the recipient (section 74(1)(a) of FOISA).

COSTS ON THE SCOTTISH ADMINISTRATION

211. The extension of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

212. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

213. The Scottish Information Commissioner has indicated that he has issued around 290 notices electronically since the Coronavirus (Scotland) Act 2020 came into force. As a result, the Commissioner will have made a small saving in relation to postage and stationery costs in each case. The Scottish Government accordingly considers that the Commissioner (and any other Scottish public authority which uses the extended provision) will make further small savings in relation to postage and stationery costs.

FREEDOM OF INFORMATION (SECTION 5 AND SCHEDULE 4: PARAGRAPH 12 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

214. This provision requires the Scottish Ministers to report on their FOI performance to the Parliament every two months while Part 2 of schedule 6 of the Coronavirus (Scotland) Act 2020 is in force.

COSTS ON THE SCOTTISH ADMINISTRATION

215. The extension of this provision will result in a small cost to the Scottish Administration, as it costs approximately £350 to publish each report which is laid before the Parliament. The Scottish Government therefore anticipate that costs of approximately £1,000 will be incurred as a result of extending these provisions.

COSTS ON LOCAL AUTHORITIES

216. The extension of this provision will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

217. The extension of this provision will result in no direct costs or savings to other bodies, individuals and businesses.

DUTIES IN RESPECT OF REPORTS AND OTHER DOCUMENTS (SECTION 7 AND SCHEDULE 6: PARAGRAPHS 8 – 10 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

218. This provision allows statutory reporting requirements to be postponed, where necessary, to allow public authorities to focus on their continued coronavirus response, although the reports must be provided as soon as possible after the statutory deadline. The provision also allows documents to be made available online instead of requiring them to be made physically available. Documents affected include, for example, Council agendas, Planning documents and site notices for various purposes.

COSTS ON THE SCOTTISH ADMINISTRATION

219. The extension of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

220. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

221. The extension of these provisions will result in no direct costs or savings to other bodies, individuals and businesses.

LOCAL AUTHORITY MEETINGS (SECTION 7 AND SCHEDULE 6: PARAGRAPHS 11-14 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

222. The provisions allow local authorities to exclude the public from local authority meetings on the basis that the presence of the public constitutes a real and substantial risk to public health relating to coronavirus. In addition, hard copies or extracts of a document requested by a member

of the public in their offices will only be provided if it is reasonably practicable and will no longer be compulsory.

COSTS ON THE SCOTTISH ADMINISTRATION

223. The extension of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

224. The extension of these provisions will result in no direct costs to local authorities. There may be some small savings if they are unable to provide hard copy extracts of documents.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

225. Excluding members of the public from local authority meetings on public health grounds and relaxing an obligation of local authorities to provide extracts of hard copy documents in their offices is not expected to impose any additional costs on other public bodies.

226. There are not expected to be any substantial new costs to individuals or businesses, as most people access public documents online. It is possible that a small number of people may incur charges for internet usage if they have to view documents online rather than receive extracts of hard copy documents, should they request them in this manner.

DURATION OF PLANNING PERMISSION (SECTION 8 AND SCHEDULE 7: PARAGRAPHS 8 – 10 OF THE CORONAVIRUS (SCOTLAND) ACT 2020) AND LISTED BUILDINGS AND CONSERVATION AREAS: CONSENTS (SECTION 5 AND SCHEDULE 4: PARAGRAPH 2 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

227. These provisions support the construction sector in its recovery from coronavirus restrictions and reduce the burden on authorities needing to reconsider applications.

COSTS ON THE SCOTTISH ADMINISTRATION

228. The extension of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

229. Extending the duration of existing planning permissions will not incur any costs for planning authorities where the development is commenced within the relevant period.

230. Extending the duration will not incur any costs for planning authorities where the development is commenced within the extended period set out in the legislation. There could be a small resource saving for planning authorities where applicants might otherwise have had to apply to vary conditions of consents to deal with delays caused by the coronavirus pandemic.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

231. Extending the duration of existing planning permissions will not incur any costs for applicants where the development is commenced within the relevant period. It will provide savings where an applicant would otherwise need to apply to vary a condition in order to deal with delays caused by the coronavirus emergency.

LAND REGISTRATION: ELECTRONIC DELIVERY OF COPY OF DEED TO REGISTERS OF SCOTLAND (SECTION 8 AND SCHEDULE 7: PARAGRAPHS 11-14 OF THE CORONAVIRUS (SCOTLAND) ACT 2020) AND REGISTERS KEPT BY THE KEEPER OF THE REGISTERS OF SCOTLAND (SECTION 5 AND SCHEDULE 4: PARAGRAPH 3 AND 4 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

232. These provisions enable registration in four of the registers under the management and control of the Keeper, including the Land Register, to proceed on the basis of copies of documents submitted electronically thus allowing for a safer, faster and more reliable way to transmit applications.

COSTS ON THE SCOTTISH ADMINISTRATION

233. The extension of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

234. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

235. For customers submitting applications electronically, it is likely that the costs of scanning the applications for submission will be offset by the savings from not using a mail service.

SCRUTINY OF SUBORDINATE LEGISLATION IN URGENT CASES (SECTION 8 AND SCHEDULE 7: PARAGRAPHS 23-30 OF THE CORONAVIRUS (SCOTLAND) ACT 2020)

236. These provisions allow the use of the made affirmative procedure for a Scottish Statutory Instrument (SSI) that would otherwise be made under affirmative procedure, where this is necessary by reason of urgency.

COSTS ON THE SCOTTISH ADMINISTRATION

237. The extension of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

238. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

239. The extension of these provisions will result in no direct costs or savings to other bodies, individuals or businesses.

STUDENT RESIDENTIAL TENANCY: TERMINATION BY TENANT (SECTION 2 AND SCHEDULE 1: PARAGRAPHS 1 – 3 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020, EXCEPT PARAGRAPH 3(2)(B)(I), THE OPENING WORDS OF PARAGRAPH 3(2)(B)(II) AND PARAGRAPH 3(3) AND (4) WHICH ARE BEING EXPIRED)

240. This makes provision in relation to tenancies for students in halls of residence and Purpose Built Student Accommodation (PBSA) and allows that there is a 28 day notice period for those who have already entered into a student residential tenancy but have not yet occupied the property and the agreement was entered into while the Coronavirus (Scotland) (No.2) Act 2020 is in force. Students can only terminate tenancies for a reason relating to coronavirus.

COSTS ON THE SCOTTISH ADMINISTRATION

241. The extension of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

242. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

Students

243. The Scottish Government does not anticipate any additional financial implications to students by giving them a temporary right to give their landlord a 28 day notice to leave during the period that these are in force.

University and colleges

244. The Scottish Government understands that all universities and colleges have continued to allow the early release of students in accommodation they provide in this academic year. At present, colleges and universities are monitoring government guidance and local protection levels and considering if this will impact the start of the academic year. Given this decision will be made at an institutional level and will likely be made in the coming months, the Scottish Government cannot accurately estimate the financial implications for colleges and universities at present.

However, the continuation of statutory notice to leave periods might allow students further flexibility to terminate their contract should circumstances require.

245. There will be some continued financial implications for universities and colleges should it be necessary for students to end accommodation for the new academic year early, however, it is difficult to assess this given the uncertainty around what impact, if any, there will be at the start of the new academic year and whether institutions will seek, as they did in 2020/21, to delay contracts starting in response. No official statistics are available on the average rental costs for university and college accommodation. It is therefore difficult to assess the financial impact of these measures in the time available, however, research¹⁶ suggests that the UK average weekly rent per person in university accommodation is £137. Based on this average weekly rent, for every 100 students who are released from contract early it is estimated to cost the sector around £55,000 per 4 week period.

Purpose Built Student Accommodation (PBSA) providers

246. The majority of student accommodation contracts align with the academic term and therefore end around mid to end June. Research suggests that the UK average weekly rent per person in private halls is £126. Depending on when the provisions in the Bill come into force this could equate to around:

- Based on a 1 to 2 months void period due to a delay in the start of the academic term, a loss of between around £504 and £1,008 per student who gives their landlord a 28 day notice to leave.

247. Due to the uncertainty around future lockdown measures and impacts on students learning opportunities and methods (restricted blended or blended) it is difficult to assess the true costs to the sector.

248. There may also be some additional administration costs for providers related to the return of any money paid by the student where upfront rental payments have been made. Given the variation in contracts and the time available it has not been possible to quantify these costs.

Letting agents

249. There may be cost implications for letting agents relating to additional administration costs (which will depend on the size and processes of individual agents) and where management fees charged by agents are linked to rental income. However, given the proximity to the end of the academic year, the Scottish Government anticipates that any additional costs will be minimal.

Personal insolvency

250. In the case of debtors seeking bankruptcy, there will be no costs and some savings to individuals and businesses. Creditors will face no increase in direct cost, but for a limited period will be unable to seek to make their debtors bankrupt for debts of less than £10,000. There is nothing to suggest these changes will lead to an increase in default rates.

¹⁶ [National Student Accommodation Survey 2019 – Results - Save the Student](#)

TENANCIES: PRE-ACTION REQUIREMENTS FOR ORDER FOR POSSESSION OR EVICTION ORDER ON GROUND OF RENT ARREARS (SECTION 2 AND SCHEDULE 1: PARAGRAPHS 4 AND 5 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

POLICY OBJECTIVES OF EXTENDING THIS PROVISION

251. The provision ensures that, prior to seeking repossession due to rent arrears, landlords must make reasonable efforts to work with tenants to manage arrears. This measure formalises the steps landlords should take when working with tenants to manage arrears, helping to sustain tenancies. It also requires the First-tier Tribunal for Scotland (Housing and Property Chamber) to take account of compliance with the requirements in deciding whether to grant an eviction order.

COSTS ON THE SCOTTISH ADMINISTRATION

252. It is not anticipated that the extension of these provisions will impose additional costs on the Scottish Administration in addition to those in relation to the First-tier Tribunal for Scotland (Housing and Property Chamber) outlined in this Financial Memorandum in relation to Eviction from Dwelling Houses (Section 2 and schedule 1: Paragraphs 1 and 4 of the Coronavirus (Scotland) Act 2020).

COSTS ON LOCAL AUTHORITIES

253. It is not anticipated that the extension of pre-action protocols on private landlords will impose additional costs on local authorities. The introduction of these measures may help local authorities save costs relating to the provision of temporary accommodation by helping to reduce the number of private tenants who are at risk of homelessness.

254. The average cost to local authorities of a temporary furnished flat in Scotland ranges from £318.94 per week to £494.38. The cost of emergency provision can be up to £1,370¹⁷ per week. There were 11,665 households in temporary accommodation as at 31 March 2020¹⁸. Preventing tenants in the private rented sector from requiring local authorities to provide homelessness temporary accommodation therefore protects them from increased housing costs for this group.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

255. It is not anticipated that the extension of the pre-action requirements will result in any additional costs for private tenants. There may be some cost saving for tenants where the pre-action measures are successful in helping to sustain the tenancy, for example in relation to moving costs. The exact savings will depend on the individual circumstances of the tenant.

256. In relation to private sector landlords, any additional costs for landlords resulting from the extension of these measures will depend on current practice. However, as outlined in the Business and Regulatory Impact Assessment for the [Rent Arrears Pre-Action Requirements \(Coronavirus\) \(Scotland\) Regulations 2020](#), it is not considered that the introduction of the pre-action requirements will necessitate landlords to undertake significant actions that generate any specific,

¹⁷ [Watts et al Temporary Accommodation Report FINAL 231118 \(hw.ac.uk\)](#)

¹⁸ [Homelessness in Scotland: 2019 to 2020 - gov.scot \(www.gov.scot\)](#)

additional costs beyond those that may occur in relation to seeking repossession of a property. There may also be costs savings for private landlord where the pre-action requirements are successful in sustaining a tenancy and facilitating the repayment of arrears.

SOCIAL CARE STAFF SUPPORT FUND (SECTION 2 AND SCHEDULE 1: PARAGRAPH 7 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

257. The purpose of the Social Care Staff Support Fund (Coronavirus) Regulations 2020 is to provide for the establishment, maintenance and administration of the Social Care Staff Support Fund, under the provisions of the Coronavirus (Scotland) (No.2) Act 2020. Further details are provided in the Policy Memorandum.

COSTS ON THE SCOTTISH ADMINISTRATION

258. Support has been given to the social care sector over the course of the pandemic through a range of support funding, mainly through sustainability payments to providers for under occupancy, IPC measures and increased staffing costs. Estimated total costs of sustainability funding for 2020-21 is currently £136 million. It is difficult to forecast the use and therefore cost of this Fund as it depends on staff absence rates relating to coronavirus. However, this Fund continues to be utilised and it is estimated that a full year of the Fund may be in the region of £7-9 million, although it should be noted that this is a top level forecast.

COSTS ON LOCAL AUTHORITIES

259. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

260. The extension of these provisions will result in no direct costs or savings to other bodies, individuals and businesses.

BANKRUPTCY (SECTION 2 AND SCHEDULE 1: PARAGRAPHS 8, 10 AND 12 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

261. The provisions include measures to further protect those with unsustainable debt by increasing the minimum debt level a creditor must be owed to petition bankruptcy through the Courts from £3,000 to £10,000. The provisions also provide for greater use of technology in bankruptcy procedures by enabling meetings of creditors to take place by virtual means rather than in a physical environment and to permit documents required during bankruptcy administration to be transmitted to a person electronically.

COSTS ON THE SCOTTISH ADMINISTRATION

262. The extension of these provisions will result in minimal direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

263. The extension of these provisions will result in minimal direct costs or savings to local authorities. In relation to local authorities' role as a creditor – for example, in collecting unpaid council tax – this provision does not extinguish the debt or prevent other means of recovery. In terms of bankruptcy it represents a deferral of action where the debts are less than £10,000, rather than a measure that reduces any scope for recovery.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

264. Creditors will face no increase in direct costs, but for the extended period will be unable to seek to make their debtors bankrupt for debts of less than £10,000. This provision does not extinguish the debt or prevent other means of recovery. In terms of bankruptcy it represents a deferral action where the debts are less than £10,000, rather than a measure that reduces any scope for recovery. Reductions in administration costs in bankruptcy proceedings through the facility for virtual meetings of creditors and electronic service of documents may deliver an increase in the funds ultimately available to creditors.

MENTAL HEALTH: NAMED PERSON NOMINATION (SECTION 2 AND SCHEDULE 1: PARAGRAPH 15 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

265. Under the Mental Health (Care and Treatment) (Scotland) Act 2003 a patient aged 16 or over may choose an individual to be their named person. The purpose of a named person is one of safeguarding which not only allows for the patient to be represented, it also helps the patient exercise their rights. This provision keeps the safeguards a named person offers but crucially helps minimise the disruption caused by the pandemic. Both the patient and the proposed named person are still required to fulfil the original process which requires for this to be made in writing.

COSTS ON THE SCOTTISH ADMINISTRATION

266. The extension of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

267. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

268. The extension of these provisions will result in no direct costs or savings to other bodies, individuals and businesses.

CARE HOMES - EMERGENCY DIRECTIONS AND EMERGENCY INTERVENTION ORDERS (SECTION 2 AND SCHEDULE 1: PARAGRAPHS 16 – 17 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

269. These provisions made temporary changes to the Public Services Reform (Scotland) Act 2010 for a limited time period to allow for the issuing of Emergency Directions and Emergency Intervention Orders. Details are provided in the Policy Memorandum.

COSTS ON THE SCOTTISH ADMINISTRATION

270. The extension of these provisions will result in no direct costs or savings to the Scottish Administration, as specific circumstances must be met before they can be enacted.

271. In the event that an Emergency Intervention Order is granted (following approval by the Sheriff Court or Court of Session), and nominated officer who is appointed is an officer from the Health Board, regulation 4 of the Care Homes Intervention Orders (Coronavirus) (Scotland) Regulations 2020 (“2020 Regulations” made under section 65B of the 2010 Act) provides that any expenditure incurred by a nominated officer or the Scottish Ministers in relation to intervention under section 65A of the 2010 Act may be recovered from the affected care home provider (“the provider”).

COSTS ON LOCAL AUTHORITIES

272. The extension of these provisions will result in no direct costs or savings to local authorities, as very specific circumstances must be met before they can be enacted.

273. However, there may be costs for local authorities in the circumstances that a care home run by the local authority is directed to undertake an action via the Emergency Directions, depending on what the action is. In the exceptional instance that a care home provider does not comply with a direction from a Health Board under section 63A of the 2010 Act, section 63B of the 2010 Act provides the Health Board can carry out the steps themselves. To allow the Health Board to do this, they may enter the care home if necessary to carry out the specified directions and recover the costs, incurred by the Health Board of carrying out the actions, from the provider. Before taking this course of action, the Health Board may apply to the sheriff for a warrant to authorise this.

274. In the event that an Emergency Intervention Order is granted (following approval by the Sheriff Court or Court of Session), and the nominated officer who is appointed is an officer from a local authority, regulation 4 of the 2020 Regulations provides that any expenditure incurred by a nominated officer or the Scottish Ministers in relation to intervention under section 65A of the 2010 Act may be recovered from the affected provider.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

275. The extension of these provisions will result in no direct costs or savings to other bodies, individuals and businesses, as specific circumstances must be met must be met before the powers are used .

276. However, there may be costs for private care home providers in the circumstance that a care home is directed to undertake an action via the Emergency Directions, depending on what the action is. In the exceptional instance that a care home provider does not take the necessary steps in response to a direction, section 63B of the provision allows the Health Board to carry out the steps themselves. To allow the Health Board to do this, they may enter the care home if necessary and recover the costs incurred of carrying out the actions from the provider. The Health Board must apply to the sheriff for a warrant to authorise this.

277. In the event that an Emergency Intervention Order is granted (following approval by the Sheriff Court or Court of Session), regulation 4 of the 2020 Regulations provides that any expenditure incurred by a nominated officer or the Scottish Ministers in relation to intervention under section 65A of the 2010 Act may be recovered from the affected provider.

POWERS TO PURCHASE CARE HOME SERVICES AND CARE AT HOME PROVIDERS (SECTION 2 AND SCHEDULE 1: PARAGRAPHS 18 TO 21 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

278. This provision gives temporary powers to Local Authorities to acquire, by agreement, a care home or care at home services. It also sets out the powers available to Health Bodies (a Health Board, the Common Services Agency and Health Improvement Scotland) to acquire a care home, by agreement, on behalf of the Scottish Ministers. More details are provided in the Policy Memorandum.

COSTS ON THE SCOTTISH ADMINISTRATION

279. The extension of these provisions will result in no direct costs or savings to the Scottish Administration, as specific circumstances must be met before these powers can be used. All acquisitions made under these provisions are voluntary between the two parties.

280. However, in the event that a relevant Health Body or Local Authority does acquire a care home or care at home services agreement between the Scottish Government and the relevant body may be needed regarding any financial support necessary to make this purchase.

COSTS ON LOCAL AUTHORITIES

281. All purchases under this provision will be by agreement. If the powers are used and a local authority chooses to purchase a care home or a care at home service, this will incur costs, such as the sum paid for acquiring the business and any professional fees (if professional services are needed) and outlays related to any transaction.

282. However, in the event that a Local Authority does purchase a care home or care at home services agreement between the Scottish Government and the Local Authority may be needed regarding any financial support necessary to make this purchase.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

283. All purchases under this provision must be consensual. If the powers are used and a relevant Health Body chooses to purchase a care home on behalf of Scottish Ministers, this will result in costs being incurred by that body.

284. However, in the event that a Health Body does purchase care at home services on behalf of Scottish Ministers, agreement between the Scottish Government and the relevant body may be needed regarding financial support necessary to make this purchase.

CRIMINAL JUSTICE - CRIMINAL PROCEEDINGS: EXTENSION OF TIME LIMITS (SECTION 3 AND SCHEDULE 2: PARAGRAPH 1 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

285. These provisions dis-apply certain time limits contained in the Criminal Procedure (Scotland) Act 1995 so that there is a period during which these time limits will not apply and the court can adjourn a case for such period as it considers appropriate. Full details are provided in the Policy Memorandum.

COSTS ON THE SCOTTISH ADMINISTRATION

COPFS

286. While there is no data on the extent to which these powers have been used by the courts to adjourn a case for a longer period than would otherwise have been possible, where the court does so, it will result in small savings to COPFS, relative to costs that would have been incurred by COPFS had these provisions not been in effect, during the suspension period. These will result from reduced staffing costs as there will not be a need to make multiple applications to extend re-adjourn an individual cases.

SCTS

287. As noted above, there is no data on the extent to which these powers have been used in practice to adjourn a case for a longer period than would otherwise have been possible. Where these provisions are used, they will result in small time savings to SCTS by avoiding the need for multiple court hearings to adjourn a case on multiple occasions.

SPS

288. The reduced capacity of the courts to process criminal cases has had a significant impact on SPS. This has not necessarily arisen as a consequence of the suspension of statutory time limits on the length of individual adjournments as under the existing law, it is possible for the parties to apply for a case to be adjourned more than once. If there were no provision for the suspension of statutory time limits in all criminal cases, it is likely that in most, if not all, cases, multiple adjournments would be used as needed on a case-by-case basis.

289. Even leaving this aside, the impact of suspending the time limits contained in these provisions on the overall prison population is not thought to have been to be significant. The time

limits on an adjournment at sections 145 and 145A of the 1995 Act have only been extended in cases where the accused person is not being remanded in custody and so cannot impact on the prison population. The time limit at section 200 of the 1995 Act relates to cases where the accused has been convicted and is awaiting sentencing. The Scottish Government anticipates that the courts would only consider remanding the offender in custody where they are giving serious consideration to imposing a custodial sentence. As such, any extension to the time that they spend in remand awaiting sentencing would be taken into account when their sentence is imposed and so will not impact significantly, if at all, on the prison population. Section 245J of the 1995 Act relates to cases where an offender is suspected of having breached the terms of certain types of order. There may be a small number of cases where the court decides to remand the offender in custody while it makes further inquiries, and the suspension of the time limits that apply could result in that offender being held in custody for longer than would otherwise be the case, though in the context of the broader impact of the coronavirus pandemic on the size of the prison population, the impact is not thought to have been significant.

COSTS ON LOCAL AUTHORITIES

290. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

291. The extension of these provisions will result in no direct costs or savings to other bodies, individuals or businesses.

CRIMINAL JUSTICE - ARRANGEMENTS FOR THE CUSTODY OF PERSONS DETAINED AT POLICE STATIONS (SECTION 3 AND SCHEDULE 2: PARAGRAPHS 2 – 5 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

292. These provisions enable the Scottish Ministers to make arrangements for Prisoner Custody Officers (PCOs) to carry out their functions within police stations for the purpose of facilitating the appearance before a court by electronic means of prisoners in police custody. This will involve prisoners appearing before the court by video link from police stations.

COSTS ON THE SCOTTISH ADMINISTRATION

293. PCOs are required to facilitate the escort of detained persons and prisoners between relevant premises, including police stations, courts, prisons and hospitals. These officers are also responsible for ensuring the custody of detained persons while they on court premises, or temporarily away from prison. The statutory duties, as provided in section 102(2) of the Criminal Justice and Public Order Act 1994, are provided for through a contract which is managed by the Scottish Prison Service.

294. This contract, the ‘Scottish Court Custody and Prison Escort Service’ (SCCPES) includes a fixed monthly fee and a number of variable elements that are volume dependent, including court buildings, court rooms and routes operated. The contract allows for the redeployment of PCOs to police stations and is expected to remain cost neutral during the period of the extension.

295. Police Officers and other police staff had previously facilitated the appearance of custodies at court via video links across 11 custody centres before these provisions were enacted. It was assessed that around three officers per site were required to support this and was estimated to cost around £37,000 per week; this continues to be offset through the use of the existing PCO contract.

296. The extension of these provisions continues to support virtual custodies across 14 custody centres.

297. Extended use of virtual custodies will enable redeployment of some officers usually based in court premises; this will free-up some capacity for priority duties.

298. The impact on the SCTS is expected to be largely cost neutral overall. The decrease in physical custody hearings enabled by this provision is unlikely to deliver any measurable cashable savings because the administrative and resource demands for SCTS do not differ significantly as a result of the virtual appearance by the accused. While an increase in virtual courts does offer an opportunity for organising business in a more efficient way, any efficiencies gained will be offset by demands on buildings and staff for other activity as court business starts to resume both virtually and physically where appropriate.

299. Similarly, the impact to COPFS is expected to be neutral. Prosecution staff will still be required to attend custody hearings, but this will be done remotely where possible to reduce attendance at the court building.

300. In summary, the direct impact of this provision is expected to be largely cost neutral and no further technical or software costs are expected. The Scottish Government has already provided funding to Police Scotland to help implement the necessary infrastructure and technology during 2020.

301. Continuation of undertakings in relation to non-attendance at court as a result of the coronavirus pandemic.

302. It is anticipated any costs associated with this provision are largely notional as there will not be an increase in volume to overall court business as a result of the measure. Instead, what the measure will do is preserve any protective conditions attached to an undertaking which may otherwise be lost.

303. There may be minimal legal and administrative costs upon the COPFS due to the requirement to give notice to the accused of the continuation of an undertaking if the court appoints a new date. There would also be minimal costs to COPFS in notifying Police Scotland of any modification to the date the person is to appear at court.

304. Use of this new provision will be considered on a case-by-case basis by the courts. While the measure provides the court with a power to continue an undertaking hearing to a later date in the situation where an accused fails to attend court in accordance with their undertaking, COPFS would, in the absence of this new power, and where it remains in the public interest to do so,

consider what steps were required in order to proceed with the criminal case and to secure protective conditions for victims.

COSTS ON LOCAL AUTHORITIES

305. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

306. The extension of these provisions will result in no direct costs or savings to individuals.

307. There are likely to be some costs to businesses running the SCCPES contract for the training and support of PCOs; however, it is expected that the costs of this will be met from the existing contract with the Scottish Prison Service.

308. There is a concern that, without the measure, the potential loss of protective conditions attached to the undertaking creates public and witness safety concerns which could also result in additional costs to Police Scotland in managing risk and victim safety. Any costs associated with managing risk and victim safety in the event that protective conditions of undertaking are lost would depend on an assessment of the individual facts and circumstances of each case.

309. In addition, in the absence of this measure, and where the accused fails to attend court in accordance with their undertaking due to a reason attributable to the coronavirus pandemic, Police Scotland may require to direct resource to the management of those alleged offenders in the community who are no longer subject to protective conditions of undertaking. The exact costs would depend on a number of factors including the number of accused in this position, the type of offences they are charged with, and assessment of the risk posed by the individual if no undertaking conditions are in place. As such, these potential costs cannot be estimated with any degree of precision. There would also be minimal costs to Police Scotland in updating relevant victims and witnesses. This is especially important in domestic abuse cases due to risk and safety considerations for victims.

CRIMINAL JUSTICE - EXPIRY OF UNDERTAKING UNDER SECTION 25(2)(A) OF THE CRIMINAL JUSTICE (SCOTLAND) ACT 2016 (SECTION 3 AND SCHEDULE 2: PARAGRAPH 6 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

310. During the coronavirus pandemic people have been unable to attend court in accordance with their undertaking due to public health guidance or infection. These provisions provide that where a person fails to appear at court as required by the terms of the undertaking and the court considers that the person's failure to appear is attributable to a reason relating to coronavirus, and the court does not consider it appropriate to grant a warrant for the person's arrest on account of the failure to appear, the court may modify the terms of the undertaking given by changing the time at which the person is to appear at the court. Further details are provided in the Policy Memorandum.

This document relates to the Coronavirus (Extension and Expiry) (Scotland) Bill (SP Bill 1) as introduced in the Scottish Parliament on 18 June 2021

COSTS ON THE SCOTTISH ADMINISTRATION

311. The extension of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

312. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

313. The extension of these provisions will result in no direct costs or savings to other bodies, individuals and businesses.

PROCEEDS OF CRIME (SECTION 3 AND SCHEDULE 2: PARAGRAPHS 8 AND 9 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

314. These provisions temporarily amend Part 3 (Confiscation) of the Proceeds of Crime Act 2002 in the ways explained in the Policy Memorandum.

COSTS ON THE SCOTTISH ADMINISTRATION

315. The extension of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

316. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

317. The extension of these provisions will result in no direct costs or savings to other bodies, individuals and businesses.

INTIMATION ETC. OF DOCUMENTS (SECTION 3 AND SCHEDULE 2: PARAGRAPH 10 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

318. The provisions allow 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, it is instead to be done by publication of the document on the SCTS website in line with any direction issued by the Lord President or Lord Justice General.

COSTS ON THE SCOTTISH ADMINISTRATION

319. In order to facilitate the displaying of documents on the SCTS website as provided for in the Bill, SCTS have increased functionality within their IT system. This enables notices to be

published directly from the SCTS Integrated Case Management System (ICMS) and has negated per annum staff costs¹⁹ which were directly attributable to moving to the manual process of uploading documents onto the SCTS website (previously estimated at £18,000).

320. It is difficult to identify the specific IT development cost (which is solely attributable to the publication of documents on the SCTS website) as the functionality is also being used for other court business conducted under the simple procedure process. However, any IT development costs are offset against the advantages realised from maintaining court business and by reduced staff costs and efficiency savings. As the system is now automated there are no associated operational costs.

COSTS ON LOCAL AUTHORITIES

321. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

322. The extension of these provisions will result in no direct costs to other bodies, individuals and businesses. Within commissary court procedure, there may be some cost savings to individuals as it is more likely that any other person who could be appointed executor is more likely to see an online notice and will therefore have the opportunity to make representations to the court at an earlier stage which will reduce costs. In other civil procedures many cases will involve businesses or individuals either as pursuer or defender. Having notices published online may improve chances of enforcing a decree or in the case of a defender whose whereabouts are not known, then there is an improved chance of finding that person, enabling them to properly defend the claim against them.

CARE SERVICES: GIVING OF NOTICES BY THE CARE INSPECTORATE (SECTION 5 AND SCHEDULE 4: PARAGRAPH 5 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

323. These provisions provide the Care Inspectorate with powers to send formal notices to registered care service providers by electronic means for the duration of the emergency period and expand the list of persons on which notice can be served.

COSTS ON THE SCOTTISH ADMINISTRATION

324. The extension of these provisions will result in no direct costs or savings to the Scottish Administration.

¹⁹ Staff costs were calculated by using historical data to predict the number of documents affected by the provision multiplied by both the increased time taken for a clerk to upload the document to the web and the hourly rate of the grade of staff that took forward this work.

COSTS ON LOCAL AUTHORITIES

325. The extension of these provisions will result in no direct costs to bodies, individuals and businesses and no savings to individuals. As the provisions reduce the number of notices sent by physical correspondence, provisions will result in minimal savings for the Care Inspectorate.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

326. The extension of these provisions will result in no direct costs or savings to other bodies, individuals and businesses.

EXECUTION OF DOCUMENTS, ETC. (SECTION 5 AND SCHEDULE 4: PARAGRAPH 9 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

327. The provisions dis-apply the requirement for the physical presence of certain parties in some circumstances such as the signing of certain documents or the administering of oaths, affirmations and declarations. They create the opportunity for Scottish notaries public, solicitors and advocates, guided by their professional bodies, to adopt alternative appropriate means of executing documents and oaths etc. which have a “physical presence” requirement, for example notaries may now execute remotely, by electronic means such as live video connection.

COSTS ON THE SCOTTISH ADMINISTRATION

328. The extension of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

329. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

330. The Law Society of Scotland has set out guidance to their members in relation to the use of these provisions, and so any future costs to the Society may be expected to be minimal administrative costs which would be borne by existing operational funds. The Society is funded through the practicing certificate fee paid by the profession. There may be potential for savings to individuals and businesses in relation to associated travel costs as a result of the provisions removing the requirement for “physical presence”, such savings are expected to be minimal. The provisions would place no obligation on Scottish notaries public, solicitors or advocates to facilitate such services by remote means, or to invest in equipment with which to do so.

COUNCIL TAX: EXEMPT DWELLINGS (SECTION 5 AND SCHEDULE 4: PARAGRAPH 14 OF THE CORONAVIRUS (SCOTLAND) (NO. 2) ACT 2020)

331. These provisions create an exemption from council tax liability for a property that was exempt from paying council tax due to being occupied by: students; a student’s spouse or dependant(s); school leavers; or people under the age of 18; and which then became unoccupied

This document relates to the Coronavirus (Extension and Expiry) (Scotland) Bill (SP Bill 1) as introduced in the Scottish Parliament on 18 June 2021

on or after 17 March 2020 for a reason relating to coronavirus. From (and including) 27 May 2020 such a property is exempt from paying council tax until it is occupied or these provisions come to an end.

COSTS ON THE SCOTTISH ADMINISTRATION

332. The extension of these provisions will result in no direct costs or savings to the Scottish Administration.

COSTS ON LOCAL AUTHORITIES

333. The extension of these provisions will result in no direct costs or savings to local authorities, as the properties covered by the exemption are not, in normal times, liable to pay council tax.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

334. The extension of these provisions will result in no direct costs or savings to other bodies, individuals and businesses.

RESTRICTION ON GIVING GRANT TO BUSINESSES CONNECTED TO TAX HAVENS (SECTION 5 AND SCHEDULE 4: PARAGRAPH 16 OF THE CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020)

335. This provision ensures that businesses with certain connections to tax havens may not receive coronavirus-related grants from Scottish Ministers. Further details are provided in the Policy Memorandum.

COSTS ON THE SCOTTISH ADMINISTRATION

336. The extension of these provisions will result in no direct costs to the Scottish Administration, however a benefit is conferred on the Scottish Administration by reducing the number of businesses eligible for COVID-19 business supports grants.

COSTS ON LOCAL AUTHORITIES

337. The extension of these provisions will result in no direct costs or savings to local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

338. The extension of these provisions will result in businesses affiliated with a tax haven suffering the cost of being ineligible for COVID-19 business supports grants.

SUMMARY OF COSTS

339. A summary of estimated costs and savings to the Scottish Administration, Local Authorities and other bodies, individuals and businesses of the provision of the Scottish Acts to be expired is below.

Measure proposed for expiry	Cost/saving in 2021/22		
	Scottish Administration	Local Authorities	Other bodies, individuals and businesses
Temporary extension of moratoriums on diligence	Nil	Minimal	May be some savings for businesses who are creditors.
Children and vulnerable adults: children's hearings	Nil	Local authorities may make savings if children from the same family can be placed together with one carer.	Nil
Vulnerable adults: cases of adults with incapacity	Nil	Nil	Nil
Community orders	Nil	Nil	Nil
Freedom of information	Nil	Nil	Nil
Public Finance	Nil	Nil	Nil
Social Security	Nil	Nil	Nil
Irritancy clauses in commercial leases: non-payment of rent or other sums due	Nil	Nil	Nil

This document relates to the Coronavirus (Extension and Expiry) (Scotland) Bill (SP Bill 1) as introduced in the Scottish Parliament on 18 June 2021

Student Residential Tenancy: Termination by Tenant (7-day notice period for tenancies)	Nil	Nil	1 to 4 weeks rental loss for those students no longer able to provide 7 day notice to leave resulting in a loss of between £126 and £504
Coronavirus Carer's Allowance Supplement	Nil	Nil	Nil
Care Homes - Further provisions	Nil	Nil	Minimal savings for the Care Inspectorate and care home providers
Marriage and Civil Partnership	Minimal savings in terms of staff resource and approx. £260 per two-monthly report from no longer publishing the report.	N/A	Minimal savings for National Records of Scotland in terms of staff resource spent in compiling data for the report.

340. A summary of estimated costs and savings to the Scottish Administration, Local Authorities and other bodies, individuals and businesses of the provisions to be extended is below.

Measure proposed for extension	Cost/saving in 2021/22		
	Scottish Administration	Local Authorities	Other bodies, individuals and businesses
Eviction from dwelling-houses	<p>Social sector – nil</p> <p>Private sector – possible costs for the First Tier Tribunal in Scotland if increase in time for cases.</p> <p>Due to the nature of the measure, unable to forecast potential scale of costs.</p>	<p>Social sector – likely additional costs in repossession cases; also loss of rental income if tenants are unable to pay rent.</p> <p>Private sector – possible savings if fewer private tenants are at risk of homelessness.</p> <p>Due to the nature of the measure, unable to forecast potential scale of costs.</p>	<p>Social sector – likely additional costs in repossession cases. The impact of rent arrears for Registered Social Landlords could be more significant than local authorities because of their smaller size and primary focus on housing.</p> <p>Private sector – likely additional costs for private sector landlords seeing repossession for rent arrears or damage caused to a property; also possible costs for letting agents for additional administration costs.</p> <p>Due to the nature of the measure, unable to forecast potential scale of costs.</p>

This document relates to the Coronavirus (Extension and Expiry) (Scotland) Bill (SP Bill 1) as introduced in the Scottish Parliament on 18 June 2021

<p>Temporary extension of moratoriums on diligence</p>	<p>Nil</p>	<p>Minimal costs. Evidence shows that every pound invested in providing debt advice generates a further £4 in recoveries to that local authority</p>	<p>Possible savings. Debtors who enter either a debt management plan or an individual voluntary arrangement repay their creditors an additional £3,500 (whilst debtors who merely take advice repay their creditors an additional £858)</p>
<p>Courts and tribunals: conduct of business by electronic means</p>	<p>SCTS and COPFS will continue to incur software licencing costs, associated ongoing system maintenance and operational resource to manage bookings system for video links, with the majority of costs likely to fall to SCTS.</p>	<p>Minimal, there may be some outlay for headsets and other equipment, such as monitors, that are necessary for expert witnesses, (such as social workers or medical examiners) to take part in remote court proceedings if these are directed by the court.</p>	<p>Capital costs will be incurred by Police Scotland in relation to further expansion of the infrastructure to support enhanced police to court video linking for first appearances from custody; also for enabling confidential solicitor to client video linking for interviews.</p> <p>Police Scotland will continue to incur software licencing costs</p> <p>Possible savings for solicitors from using the SCTS online portal to upload documents</p> <p>The legal defence community may also incur costs to enable participation in remote court proceedings.</p>

Fiscal fines	Reduced costs arising from fewer court proceedings in practice and the associated savings to COPFS and the SCTS which would ordinarily be effected as a result of diverting a greater number of cases from prosecution are largely notional savings as the number of court cases has overall been limited offset by the significantly reduced operational capacity to deal with summary court proceedings as a result of the coronavirus pandemic.	Nil	Nil, other than for individuals who choose to pay a fine
Cases beginning with an appearance from custody	No anticipated quantifiable costs or savings for SCTS	Nil	Both costs and savings for Police Scotland. Reduced requirement to move prisoners around the country to attend court proceedings, potentially generating some savings. Additional costs from the need to coordinate and facilitate the safe movement of prisoners within the centralised custody suite setting to the rooms with video-links to the court (where there is virtual court appearance before a court which only has jurisdiction because of

			these provisions) as well as the associated administrative processes.
Extension of time limits	No specific costs for COPFS but time savings for both COPFS and SCTS. The financial impacts on SPS are not possible to assess	Nil	Nil
Evidence	Some additional costs for COPFS in relation to additional staff time required to draft and submit written applications, however, this is offset by small savings in relation to witness expenses	Nil	Nil
Community orders	Nil	Nil	Nil
Parole Board	Nil	Possible modest savings for Criminal Justice social workers who would normally attend an oral hearing in person being able to participate by live link	Modest savings could be expected to continue for the Parole Board with the use of remote hearings carrying on.

Release of prisoners	<p>Depending on the numbers that need to be processed, the timeframe for doing this and the associated process including risk assessment, staff may be required to work in excess of their contracted hours. It is not possible at this stage to predict in any detail what this might be. In addition to their hourly rate, this work will attract additional payments of between of 30% and 60% of their hourly rate (in practice this ranges from £16.64 to £74.40).</p> <p>Minimal cost saving for reduction in prisoner numbers.</p>	<p>Costs for any increase in demand on local authorities for the delivery of voluntary throughcare support to help short sentence prisoners reintegrate after release from prison. The scale of this change will vary widely, given that only a small minority of prison leavers choose to request this support</p>	<p>Anticipated cost pressure if the provisions used in relation to the benefits system.</p> <p>Given the separation between the data held by prison services, and benefits services, it is not practicable to calculate the specific cost of a particular cohort of individuals</p>
Legal Aid	Nil	Nil	Nil
Licensing	Nil	<p>Some efficiencies anticipated, depending on a variety of factors such as the way in which Licensing Boards decide to use the continued flexibility and discretion the provisions provide, and the number of licensing decisions, hearings etc. where the provisions may be relevant.</p>	<p>Some efficiencies anticipated, depending on a variety of factors such as the way in which Licensing Boards decide to use the continued flexibility and discretion the provisions provide, and the number of licensing decisions, hearings etc. where the provisions may be relevant.</p>
Freedom of Information	£1,000	Nil	Nil

This document relates to the Coronavirus (Extension and Expiry) (Scotland) Bill (SP Bill 1) as introduced in the Scottish Parliament on 18 June 2021

Duties in respect of reports and other documents	Nil	Nil	Nil
Local Authority meetings	Nil	Potential small savings if they are unable to provide hard copy extracts of documents.	Potential that a small number of people may incur charges for internet usage if they have to view documents online rather than receive extracts of hard copy documents.
Duration of planning permission and Listed buildings and conservation areas: consents	Nil	Potential small resource saving for planning authorities where applicants might otherwise have had to apply to vary conditions of consents to deal with delays caused by the coronavirus pandemic.	Potential savings for applicants who would otherwise need to apply to vary a condition in order to deal with delays caused by the coronavirus emergency.
Land registration: period of effect of advance notice and Registers kept by the Keeper of the Registers of Scotland	Nil	Nil	Nil
Scrutiny of subordinate legislation in urgent cases	Nil	Nil	Nil

<p>Student residential tenancy: termination by tenant</p>	<p>Nil</p>	<p>Nil</p>	<p>Universities and Colleges</p> <p>Costs if students end tenancies early in new academic year (for every 100 students who are released from contract early it is estimated to cost the university sector around £55,000 per 4 week period).</p> <p>Purpose built accommodation</p> <ul style="list-style-type: none"> • Based on a 1 to 2 months void period due to a delay in the start of the academic term, a loss of between around £504 and £1008 per student who gives their landlord a 28 day notice to leave.
<p>Tenancies: pre-action requirements for order for possession or eviction order on ground of rent arrears</p>	<p>Nil</p>	<p>May be savings if less private sector tenants are at risk of homelessness</p>	<p>May be savings for both tenants and private sectors landlords if tenancies are maintained</p>

This document relates to the Coronavirus (Extension and Expiry) (Scotland) Bill (SP Bill 1) as introduced in the Scottish Parliament on 18 June 2021

Social care staff support fund	It is difficult to forecast use of the current funding of £136 million (in 2020-21) and therefore the cost as this fund depends on staff absence rates relating to coronavirus. However, a top level forecast is that a full year of the Fund may be in the region of £7-9 million.	Nil	Nil
Bankruptcy	Minimal	Minimal	Creditors will face no increase in direct costs, but for the extended period will be unable to seek to make their debtors bankrupt for debts of less than £10,000. Reductions in administration costs in bankruptcy proceedings through the facility for virtual meetings of creditors and electronic service of documents may deliver an increase in the funds ultimately available to creditors.
Mental Health: named person nomination	Nil	Nil	Nil
Care Homes - Emergency directions and emergency intervention orders	Nil	Nil	Nil

This document relates to the Coronavirus (Extension and Expiry) (Scotland) Bill (SP Bill 1) as introduced in the Scottish Parliament on 18 June 2021

Powers to purchase care home services and care at home providers	Nil	Will be costs if the powers are used and a local authority buys a care home or care at home service. All purchases under this provision must be consensual.	Will be costs if the powers are used and a body/business buys a care home or care at home service. All purchases under this provision must be consensual.
Extension of time limits	If powers used, small savings to COPFS from reduced staffing costs; also small time savings to SCTS	Nil	Nil
Arrangements for the custody of persons detained at police stations	Largely cost neutral for SCTS and COPFS	Nil	Some costs to businesses running the SCCPES (prison escort service); it is expected that the costs of this will be met from the existing contract with the Scottish Prison Service. Minimal costs to Police Scotland
Expiry of undertaking under section 25(2)(a) of the Criminal Justice (Scotland) Act 2016	Nil	Nil	Nil
Proceeds of Crime	Nil	Nil	Nil

This document relates to the Coronavirus (Extension and Expiry) (Scotland) Bill (SP Bill 1) as introduced in the Scottish Parliament on 18 June 2021

Intimation etc. of documents	Largely cost neutral for SCTS however there may be some minimal savings in staff costs due to automation of document upload process	Nil	Potential for minimal savings to individuals and businesses as online publication of documents will increase opportunity to make representations to the court at an earlier stage which will reduce costs.
Care services: giving of notices by the Care Inspectorate	Nil	Nil	Nil
Execution of documents, etc.	Nil	Nil	Potential for minimal costs to the Law Society of Scotland. Potential for minimal savings to individuals and businesses.
Council tax: exempt dwellings	Nil	Nil	Nil
Restriction on giving grant to businesses connected to tax havens	Potential saving by reducing the number of businesses eligible for COVID-19 business supports grants	Nil	Businesses affiliated with a tax haven will suffer the cost of being ineligible for COVID-19 business support grants

This document relates to the Coronavirus (Extension and Expiry) (Scotland) Bill (SP Bill 1) as introduced in the Scottish Parliament on 18 June 2021

CORONAVIRUS (EXTENSION AND EXPIRY) (SCOTLAND) BILL

FINANCIAL MEMORANDUM

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website -
www.scottish.parliament.scot

Produced and published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish Parliament website at:
www.scottish.parliament.scot/documents