

Coronavirus (Recovery and Reform) (Scotland) Bill — Stage 2

COVID-19 Recovery Committee Daily List

Section 5

Oliver Mundell

- 112** Leave out section 5

Section 6

Oliver Mundell

- 113** In section 6, page 9, line 30, at end insert—

- <(1A) In having regard to advice under subsection (1), a relevant authority must balance that advice against the wider interests and rights of any child or young person.
- (1B) In assessing the balance under subsection (1A), the relevant authority must seek and take into account the views of—
- (a) affected children or young people,
 - (b) the parents or carers of affected children or young people, and
 - (c) any professional person the relevant authority considers appropriate.
- (1C) Where a relevant authority is not satisfied any proposed action is in the best interest of any child or young person, they may delay the implementation of any proposed action for up to 28 days. >

Oliver Mundell

- 114** In section 6, page 9, line 31, leave out <subsection (1)> and insert <this section>

Oliver Mundell

- 115** Leave out section 6

Section 7

Oliver Mundell

- 116** In section 7, page 9, line 39, at end insert—

- <(1A) In having regard to guidance under subsection 91), a relevant authority must balance that guidance against the wider interests and rights of any child or young person.
- (1B) In assessing the balance under subsection (1A), the relevant authority must seek and take into account the views of—
- (a) affected children or young people,
 - (b) the parents or carers of affected children or young people, and
 - (c) any professional person the relevant authority consider appropriate.

- (1C) Where a relevant authority is not satisfied any proposed action is in the best interest of any child or young person, they may delay the implementation of any proposed action for up to 28 days.>

Oliver Mundell

- 117 Leave out section 7

Section 8

Oliver Mundell

- 118 In section 8, page 10, line 16, at end insert—

<() must—

- (i) seek,
- (ii) have regard to, and
- (iii) publish within 24 hours of receipt,

a report from the Office of the Children and Young People’s Commissioner on whether any proposed use of powers is proportionate and necessary.>

Stephen Kerr

Supported by: Oliver Mundell

- 119 In section 8, page 10, line 16, at end insert—

<() Before making regulations under subsection (1) which close an educational establishment, the Scottish Ministers must ensure every child or young person is provided with a laptop and an internet connection. >

Oliver Mundell

- 120 In section 8, page 10, line 16, at end insert—

<() Before making regulations under subsection (1) which close an educational establishment, the Scottish Ministers must obtain the consent of the local authority in which the educational establishment is located.>

Oliver Mundell

- 121 In section 8, page 11, line 12, at end insert—

<(6A) Within 28 days of regulations being made under this section, the Scottish Ministers must convene an educational advisory council.

(6B) An educational advisory council under subsection (6A) must include—

- (a) children and young people,
- (b) those working in affected establishments,
- (c) trade union representatives,
- (d) any other stakeholders that the Scottish Minister consider relevant.

(6C) The Scottish Ministers must seek views from the educational advisory council every 28 days.>

Oliver Mundell

122 In section 8, page 11, line 12, at end insert—

<() Where regulations under subsection (1) close all schools in—

- (a) Scotland,
- (b) a specified region,

the regulations may not come into force before a period of 48 hours beginning with the day on which they are made.

() The Scottish Ministers must notify each school affected at the point at which the regulations are made.>

Oliver Mundell

123 In section 8, page 11, line 12, at end insert—

<() Draft regulations or, as the case may be, regulations, laid before the Scottish Parliament under this section must be accompanied by a statement setting out the Scottish Ministers proposals for ensuring continuation of appropriate educational provision.>

Oliver Mundell

124 In section 8, page 11, line 12, at end insert—

<() Where regulations under subsection (1) close an educational establishment, Scottish Ministers must direct that weekly contact be facilitated between—

- (a) children and young people, and
- (b) where the child is under 16, their parent or guardian,

and the educational establishment which they would attend but for those regulations.>

Oliver Mundell

125 In section 8, page 11, line 12, at end insert—

<() This section is subject to the discretion of the relevant operator to open school for any young person who in their professional judgment would be best supported in school. >

Oliver Mundell

126 In section 8, page 11, line 12, at end insert—

<() Where regulations under subsection (1) restrict access to a public educational establishment but it remains open, any parent may request that their child, who would but for the regulations, attend the educational establishment continues to attend in person.>

After section 8

Oliver Mundell

127 After section 8, insert—

<Alterations to educational assessment

- (1) This section applies where the Scottish Ministers or relevant operator are considering or introducing temporary alterations to the examination or assessment of young persons (“a temporary assessment model”) in an educational establishment as a consequence of this Act.
- (2) When considering or introducing a temporary assessment model, the Scottish Ministers or relevant operator, as the case may be, must act fairly and not arbitrarily.
- (3) For the avoidance of doubt, a temporary assessment model may not rely on historical educational data.
- (4) A young person subject to a temporary assessment model is entitled to an appeal following the assessment which considers the young person’s wider educational and personal circumstances.
- (5) When measures under, or introduced in consequence of, this Act cease to have effect, the Scottish Ministers must make arrangements for a full examination diet as soon as practicable.
- (6) The Scottish Ministers must give 90 days notice before a full examination diet commences.
- (7) A young person subject to a temporary assessment model must be given the opportunity to retake or take (as the case may be) any examinations that the young person was unable to take as a consequence of measures under, or in consequence of, this Act.>

Section 10

Oliver Mundell

128 In section 10, page 13, line 11, at end insert—

- <(3A) Before making regulations under subsection (1) which prohibit access to the whole or specified part of student accommodation premises, the relevant manager must be satisfied that a relevant student has suitable alternative accommodation that meets the student’s needs.
- (3B) For the purposes of subsection (3A), a relevant student is a student who may not remain in the student accommodation premises as a consequence of the prohibition and—
- (a) has no parent, carer or guardian in the United Kingdom, or
 - (b) does not have additional support at the home of the student’s parent, carer or guardian (as the case may be).>

After section 10

Oliver Mundell

129 After section 10 insert—

<Financial impact

Where regulations under this Chapter make provision for measures that will, or are likely to, have a detrimental financial impact on students, the Scottish Ministers must lay a plan before the Scottish Parliament within 14 days of the regulations being made setting out the Scottish Ministers' plans to provide additional financial support to students.>

Oliver Mundell

130 After section 10, insert—

<Office of the Children and Young People's Commissioner: Report

Before making regulations under section 8(1), 9(1) or 10(1), the Scottish Ministers must—

- (a) seek,
- (b) have regard to, and
- (c) publish within 24 hours of receipt,

a report from the Office of the Children and Young People's Commissioner on whether any proposed use of powers is proportionate and necessary.>

Oliver Mundell

131 After section 10, insert—

<Educational advisory council

- (1) Within 28 days of regulations being made under section 8(1), 9(1) or 10(1), the Scottish Ministers must convene an educational advisory council.
- (2) An educational advisory council under subsection (1) must include—
 - (a) children and young people,
 - (b) those working in affected establishments,
 - (c) trade union representatives,
 - (d) any other stakeholders that the Scottish Minister consider relevant.
- (3) The Scottish Ministers must seek views from the educational advisory council every 28 days.>

Oliver Mundell

132 After section 10, insert—

<Duty to seek agreement

- (1) Before making regulations under section 8(1), 9(1) or 10(1), the Scottish Ministers must consult the relevant authority to whom the regulations would apply and seek to agree voluntary arrangements to achieve the Scottish Ministers desired outcome.
- (2) Regulations can only be made under section 8(1), 9(1) or 10(1) if the Scottish Ministers are satisfied that agreement under subsection (1) cannot be reached.
- (3) In this section—
 - “relevant authority” has the meaning given by section 6(2),

“voluntary arrangements” means actions which are agreed without being specified in regulations.>

Section 11

Oliver Mundell

133 In section 11, page 13, line 38, at end insert—

<() No enforcement of any measures imposed by virtue of regulations under this Chapter may be carried out before a period of 7 days beginning with the day on which the relevant regulations come into force.>

Oliver Mundell

134 Leave out section 11

After section 11

Oliver Mundell

135 After section 11, insert—

<Educational impact

- (1) A young person who considers that the young person’s educational experience has been adversely affected by measures under, or introduced in consequence of, this Act is entitled to repeat a school year if the young person chooses to do so.
- (2) The Scottish Ministers must ensure that a young person who chooses to repeat a school year under subsection (1) is fully financially supported. >

Section 12

Oliver Mundell

136 Leave out section 12

After section 12

Oliver Mundell

137 After section 12, insert—

<Regulations: expiry

- (1) Where regulations under section 86A(1) of the Public Health etc. (Scotland) Act 2008 cease to have effect, all regulations under this Chapter cease to have effect on the relevant day unless extension of the regulations under this Chapter are approved by resolution of the Parliament.
- (2) For the purposes of subsection (1), the relevant day is at the end of the period of 28 days beginning with the day on which regulations under section 86A(1) cease to have effect.>

Section 13

Oliver Mundell

138 In section 13, page 14, line 27, at beginning insert <Subject to subsection (2)>

Oliver Mundell

139 In section 13, page 14, line 31, at end insert—

- <(2) Where the member of the Scottish Government or junior minister in charge of the regulations at the point of making the regulations leaves that post, the regulations must be reviewed by the new member of the Scottish Government or junior minister with responsibility for the subject matter of the regulations within 7 days of that member or minister's appointment.
- (3) A review under subsection (2) must consider whether the regulations are still necessary.>

Oliver Mundell

140 Leave out section 13

After section 13

Oliver Mundell

141 After section 13, insert—

<Exercise of professional judgement

- (1) No relevant authority will be found in breach of their duties under this Part where they do not act in accordance with guidance from the Scottish Ministers, or advice from the Chief Medical Officer of the Scottish Administration, so long as, in the exercise of their professional judgment, the relevant authority believes that taking any actions specified in that guidance or advice puts the welfare of others at risk.
- (2) This Part is subject to the right of a relevant authority to continue any activity they consider—
 - (a) reasonably necessary to facilitate those functions they consider business critical,
 - (b) to be in the best interests of those attending, residing, or working for their establishment.
- (3) In exercising their functions or powers under this Part, Scottish Ministers must act in accordance with the following principles—
 - (a) leaving day to day implementation and interpretation of any requests to the relevant authority, and
 - (b) respecting the professional judgment of the relevant authority, unless the Scottish Ministers believe the relevant authority to be acting in bad faith. >

Oliver Mundell

142 After section 13, insert—

<Readiness for remote learning

- (1) The Scottish Ministers must, as soon as practicable after the end of every reporting period, prepare and lay before the Scottish Parliament a report setting out—
 - (a) how ready the Scottish Ministers are to implement remote learning if necessary,
 - (b) any specific steps that have been taken during the reporting period to improve readiness.
- (2) For the purposes of subsection (1), the reporting periods are—
 - (a) the period beginning with the day of Royal Assent and ending on 31 July 2023,
 - (b) each subsequent period of one year.>

Oliver Mundell

143 After section 13, insert—

<Duty to explore alternatives and mitigations

- (1) Before making regulations under section 8(1), 9(1) or 10(1), the Scottish Ministers must consider—
 - (a) alternative options to making the regulations,
 - (b) what mitigations could be implemented to reduce the impact of the regulations.
- (2) Draft regulations or, as the case may be, regulations laid before the Scottish Parliament under section 8(1), 9(1) or 10(1) should be accompanied by a statement setting out—
 - (a) any alternative options considered to making the regulations,
 - (b) the cost of any alternative options,
 - (c) the rationale for not adopting alternative options, and
 - (d) any mitigations the Scottish Ministers propose to implement to reduce the impact of the regulations.>

Oliver Mundell

144 After section 13, insert—

<Education catch-up plan

Any person impacted by regulations under section 8(1), 9(1) or 10(1) has the right to request an education catch up plan within 90 days beginning with the day on which those regulations cease to have effect.>

Section 14

Oliver Mundell

145 Leave out section 14

After section 33

Edward Mountain

83 *Withdrawn*

Murdo Fraser

19 *Withdrawn*

Edward Mountain

146 After section 33, insert—

<Private residential tenancies: mandatory eviction grounds

- (1) The Private Housing (Tenancies) (Scotland) Act 2016 is modified as follows.
- (2) In schedule 3 (eviction grounds), after paragraph 7 (property required for religious purpose) insert—
 - “7A(1) It is an eviction ground if the landlord intends to let the property to an employee of which the landlord is the employer.
 - (2) The First-Tier Tribunal must find that the ground named in sub-paragraph (1) applies if the employee intends to occupy the let property as that person’s only or principal home for at least 3 months.
 - (3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (1) includes a contract of employment between the landlord and the employee.”>

Murdo Fraser

147 After section 33, insert—

<Private residential tenancies: mandatory eviction grounds

- (1) The private Housing (Tenancies) (Scotland) Act 2016 is modified as follows.
- (2) In schedule 3 (eviction grounds), after paragraph 7 (property required for religious purpose), insert—
 - “7A(1) It is an eviction ground if the landlord intends to let the property to an employee of which the landlord is the employer of an agriculture, forestry or other rural land-based business.
 - (2) The First-tier Tribunal must find that the ground named in sub-paragraph (1) applies if the employee intends to occupy the let property as that person’s only or principal home for at least 3 months.
 - (3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (1) includes a contract of employment between the landlord and the employee.
 - (4) For the purposes of this paragraph—
 - “agriculture” means any growing of plants or keeping of animals for the production of food or drink,
 - “forestry” means the growing of a utilisable crop of timber,

“rural land-based business” includes any land kept or preserved mainly or exclusively for sporting purposes.”>