



The Scottish Parliament
Pàrlamaid na h-Alba

LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

AGENDA

21st Meeting, 2020 (Session 5)

Wednesday 9 September 2020

The Committee will meet at 10.00 am in the David Livingstone Room (CR6).

1. **Declaration of interests:** Gail Ross will be invited to declare any relevant interests.
2. **Decision on taking business in private:** The Committee will decide whether to take item 5 in private.
3. **Post-Legislative Scrutiny of the Community Empowerment (Scotland) Act 2015, parts 3 and 5:** The Committee will take evidence from—

Professor Artur Steiner, Professor in Social Entrepreneurship and Community Development, Clementine Hill-O'Connor, Social Policy Research Associate, and Carolyn McMillan, Researcher, Glasgow Caledonian University;

and then from—

Louisa Macdonell, Chief Executive, and Linda Gillespie, Programme Manager for the Community Ownership Support Service, Development Trust Association Scotland;

Mick Doyle, Head of Programme, and Fiona Garvin, Director, Scottish Community Development Centre.

4. **Subordinate legislation:** The Committee will consider the following negative instruments—

Town and Country Planning (Emergency Period and Extended Period) (Coronavirus) (Scotland) Regulations 2020 (SSI 2020/254)
5. **Post-Legislative Scrutiny of the Community Empowerment (Scotland) Act 2015, parts 3 and 5:** The Committee will consider the evidence heard at today's

meeting.

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The papers for this meeting are as follows—

Agenda item 2

Note by Clerk

LGC/S5/20/21/1

PRIVATE PAPER

LGC/S5/20/21/2 (P)

Agenda Item 3

Note by the Clerk

LGC/S5/20/21/3

Local Government and Communities Committee

21st Meeting 2020 (Session 5), Wednesday 9th September 2020

Post-Legislative Scrutiny of Parts 3 and 5 of the Community Empowerment (Scotland) Act 2015

Introduction

1. This paper provides a short briefing on the Committee's [post-legislative scrutiny of Parts 3 and 5 of the Community Empowerment \(Scotland\) Act 2015](#). The remit of the Committee's inquiry is—

The Community Empowerment Act (2015) aimed to empower communities through strengthening their voices in the decision-making process and helping them to own and manage land and buildings. Focussing on Parts 3 and 5 of the Act, the Committee will assess the extent to which this has happened and explore what impact the Act has had on community wellbeing.

Background

2. The Committee undertook a digital engagement exercise, using the [‘Your Priorities’ tool](#) over the period 15 November 2019 to 22 January 2020, to ascertain the views of the public on what they felt contributed to good community wellbeing. The Committee received over 220 ideas and suggestions from over 700 people from a wide range of backgrounds, ages and locations, all of which remain online. An analysis of the key themes raised during the exercise and a summary of related engagement events can be found [here](#).
3. A key theme to emerge was an appetite for people to have more involvement in, and influence over, services and amenities in their local area. The Committee has decided to take this forward by carrying out post-legislative scrutiny of Parts 3 and 5 of the Community Empowerment (Scotland) Act 2016. These concern, respectively, participation requests and asset transfers (more details below). In line with the initial theme of the Committee's digital engagement, the Committee will be asking how well these provisions have actually advanced community wellbeing.

Community Empowerment (Scotland) Act 2015

4. Five years have passed since the Scottish Government's flagship [Community Empowerment Act](#) received royal assent. The Act was intended to encourage and support community involvement and participation in public services and provide a legal framework that creates new rights for community bodies.
5. Part 3 deals with “participation requests” to enable engagement and dialogue between community participation bodies (such as community councils and community development trusts) and public service authorities (for example local authorities or health boards).

6. Community bodies can make a request to a “public service authority” to participate in a process to improve an outcome of a public service. The community body must explain what experience it has of the service and how it could contribute to its improvement, and the public body must agree to the request for dialogue unless there are reasonable grounds for refusal.
7. Part 5 of the Act sets out how a “community transfer body” can request to buy, lease, manage, occupy or use land or buildings belonging to a “relevant authority” (again, most likely a local authority), and how the authority is to deal with such requests. Public authorities must transparently assess requests against a specified list of criteria laid out in the Act, and agree to the request unless there are reasonable grounds for refusal.
8. Parts 3 and 5 of the Act came into force three years ago and assessments of both parts were undertaken by Glasgow Caledonian University in April and July of 2020 respectively¹. With sufficient time now having passed for reforms to have bedded-in, the Committee will explore the effectiveness of these two parts through the lens of community wellbeing.

Evidence and next steps

9. The Committee will be taking evidence over the remainder of 2020, with an aim to finding out if the ambitions behind parts 3 and 5 of the Act have been met. The first panel of witnesses are the team from Glasgow Caledonian University who carried out the evaluation. The second panel comprise members of two organisations with experience of assisting community groups seeking to use the powers in Parts 3 and 5: the Development Trust Association Scotland and the Scottish Community Development Centre (A written submission from this organisation is attached at annexe A).

Next Steps

10. There will be further evidence sessions during autumn. The Committee will shortly issue a targeted survey to stakeholders such as local charities, community councils and relevant public bodies; in order to gather views and information about their experiences of participation requests and asset transfers. Should social distancing measures allow, the Committee is keen to visit places where the Act has made a difference and places where its impact has yet to be felt. This work will conclude with the Committee reporting its findings to the Parliament

¹ [Participation Requests: Evaluation of Part 3 of the Community Empowerment \(Scotland\) Act 2015 and Community Empowerment \(Scotland\) Act 2015: asset transfer requests - evaluation](#)

Written submission from the Scottish Community Development Centre

Introduction

SCDC believes that the Community Empowerment (Scotland) Act is a vital component of wider developments in community empowerment and participative democracy in Scotland. It imbues citizens with additional rights to make active contributions to community planning, democratic development and service reform towards a more compassionate and more equal society. The Act has a key role in addressing practical and cultural barriers to achieving empowerment and participation alongside other methods of community led expression such as grassroots social action, lobbying and campaigning.

The value of a community led approach has been reflected recently in the well-connected, flexible, responsive and resilient nature of the community sector's emergency response to Covid-19. Community groups and community-led approaches have demonstrated their value in supporting and addressing gaps in public service provision. This experience demonstrates why they need to continue to be supported so that all communities across Scotland are encouraged and assisted to participate and have control and influence over their own circumstances.

Our view is that assessing the impact of Parts 3 and 5 of the Community Empowerment Act is systemically linked to the implementation of the other aspects of the Act, in particular, Part 2, dealing with participation in community planning, and to the wider resourcing of community development and empowerment measures.

Concurrent with this review, we believe that the community engagement duties for Local Outcome Improvement and Locality Planning in Part 2 of the Community Empowerment Act should also be reviewed to ascertain to what extent they are:

- delivering effective participation by communities as envisaged
- effectively focusing on socio-economic and other inequalities.

Issues with implementation of Part 2 both weaken the confidence of local people on the broader participation process and risk establishing a more negative context for participation requests arising from this, rather than

maximising their value as a tool for improved outcomes, service reform and co-production. Given the importance of citizen buy to these broader elements of the legislation, we suggest that engagement with key empowerment stakeholders from communities, support agencies and public agencies is conducted to take stock of where we are now in relation to community planning and other related aspects of participation. This should be reported to the Scottish Government within a reasonable timescale and this more active role in monitoring implementation would be helpful in reinvigorating the legislative ambitions of the Act to unlock community potential.

Although we are supportive of the Act, we recognise that implementation has faced challenges, some of which are as follows:

- The ongoing squeeze on public finances due to 'austerity' measures which restricts the ability of public bodies to put in place adequate policies and support (community capacity building) around the provisions.
- The Act's focus on inequality of place (again, particularly in Part 2) means that the needs of communities of identity are often not being met adequately. This is partly due to a lack of collective understanding of how place and identity are linked and where they diverge in empowerment terms.
- The need for links and 'read across' to other legislation, policies and resources to be stronger and/or simplified. This includes how the National Standards for Community Engagement underpin the Act, and the relationship between the ambitions of the Act with the Local Governance Review, the requirements for Local Place Plans (LPPs) in the Planning(Scotland Act) 2010, the integration of health and social care, children's services planning and community justice. The implementation of the Place Principle and many commitments to co-production and public service reform are also highly relevant.
- The need to ensure that communities have more equitable access to trusted community development support to build on their assets and strengthen their skills and knowledge for greater empowerment and influence through use of the Act and other measures. These resources are minimal or absent in many communities, which is a fundamental barrier to helping them become more empowered. The availability or otherwise of such support can also affect the extent to which more disadvantaged communities can access resources and influence.

Participation Requests

Our broad view of Participation Requests is that they are a useful way for

community groups to pro-actively initiate dialogue with public bodies on improving public services. They should not be seen as replacing existing participation mechanisms, but as a potential way for community groups to strengthen their involvement. The legislation provides a useful framework to inform all engagement in that it promotes the following:

- Dialogue that is **initiated** by the community rather than only solicited from them
- A focus on improving **outcomes**, creating an opportunity to collaboratively explore different available options.
- **Co-production** of public services, with a shift in power towards people with **lived experience** of services.
- A focus on **inequality**.
- **Transparency**, in that there is a requirement for public service authorities to respond, explain decisions behind the outcome of the Participation Request, and report on the process.

Participation requests came into effect in April 2017 and since then only 70 community groups² across Scotland have made participation requests to public bodies, which is fewer than might have been expected. More than half of these have been accepted.³ Most have been made to local authorities – we currently know of 5 that have been to other public bodies. The majority have been made by community councils.⁴

Our own learning has, in the main, chimed with that of the Scottish Government evaluation of Part 3 of the Act. The key points are as follows:

- Examples have emerged of participation requests that have led to service changes and strengthened the participation of community groups in service design and improvement.
- A range of people who have been involved in participation requests, including both those in community groups and in public bodies, view participation requests positively as a way to initiate constructive dialogue between public services and communities.
- Some public bodies and community groups see participation requests less positively. For instance, there is a view among some public bodies that receiving participation requests is a sign that existing ways for groups to participate have failed.

² This number comes from our own online trawl of participation requests, and we expect the actual number to be even higher. It is also worth noting that many more community groups will have made informal inquiries to public bodies about participation requests. These are not normally recorded.

³ The Scottish Government evaluation of part 3 of the Act by Caledonian University found that 27 out of 46 participation requests made between April 2017 and March 2019 were accepted.

⁴ The same research found that 68% of participation requests in 2017-2018 and 52% in 2018-2019 were made by community councils.

- There have been low levels of promotion of the right to lodge a PR, which in turn has affected take up. This reflects the above point where some authorities view the PR process as a route to deal with failures in other forms of engagement.
- A few local authorities have begun to overhaul the wider participation landscape, including the role of PRs. However, in most cases neither the National Standards for Community Engagement nor the new Audit Scotland Principles⁵ for Empowerment are sufficiently evident in how public agencies are approaching this.
- The implementation of the Gunning principles and recent Court of Session judgement regarding the efficacy of community engagement in service redesign in one local authority area may lead to the potential for more communities seeking legal remedies via judicial review on equalities and human rights grounds as these relate to their experience of being adequately involved in decisions affecting them.
- Some community groups who have made participation requests and have been refused are referred to other engagements processes. Further research into their subsequent experiences is needed to determine whether this is an appropriate mechanism to improve outcomes.
- The event of some Participation Requests resulting in flawed outcome improvement processes highlights a weakness in the legislation in ensuring that the processes which result from participation requests involve genuine co-production and meaningful participation. Scottish Government have recognised this and are investing in support to improve these processes.
- Promotion of, and support for, Participation Requests by public bodies varies across Scotland with many limiting information to websites, and some not reporting any detailed activity in their annual reports. There are examples of good practice but, given that most Participation Requests are received by local authorities, other types of public bodies (e.g. health boards and regional transport authorities) could do more to promote and support Participation Requests.
- There are ongoing questions about the extent to which Participation Requests are reducing inequality evidenced by the limited numbers of Participation Requests being made by groups representing disadvantaged communities and equality groups.

⁵ Audit Scotland has produced a set of principles and recommendations for improving the outcomes of empowerment in community planning and public services. These principles describe the features of good community empowerment and frame how scrutiny bodies will hold agencies and community planning partners accountable for implementation of empowerment agenda in the future.

<https://www.audit-scotland.gov.uk/report/principles-for-community-empowerment>

Key areas going forward

Our view is that the following actions would support greater take up and impact of the Act:

- Strengthening requirements for reporting and monitoring of Participation Requests, and support for public service authorities to do so where needed. This should include outcomes of successful requests and information on what resulted from alternative remedies for those which did not proceed.
- Strengthening guidance for both public service authorities and community groups in respect to designing and taking part in good outcome improvement processes.
- Support for accessible points of contact in each public service for PRs. These should help nominated officers in services plan for engaging with requests, connect community groups constructively with the right parts of the services involved, contribute to culture change and deliver service reform through outcome improvement dialogue. The support should also help link PRs, and the staff charged with implementing them, with other participatory initiatives in community planning, public service reform and co-production.
- Improvement of promotion and support for PR's, internally and externally, setting these in the context of broader participation and ensuring that community capacity building for Participation Requests is a visible, adequately resourced aspect of CLD planning, other placemaking initiatives and single service engagement and improvement.
- Our view is that the existence of a fair and proportionate appeals system may have a positive influence on the development of positive institutional responses to participation rights and should therefore be explored thoroughly. The recommendation to continue dialogue about an appeals mechanism for PRs is welcomed and should move quickly to an active phase. This should involve a deliberative process of engagement to establish a way forward.
- Although we would generally take the view that expensive legal solutions are not the best route to resolving conflict groups should, as matter of justice, be able to use legislation to further their legitimate aims. This should include access to legal remedies arising from the CE Act and its relationships to equalities and human rights duties embedded in other legislation and underpinned by judicial review. Support resources should be available to help communities explore this.

Asset transfer

In general, we refer groups who wish to pursue asset transfer to agencies with greater technical expertise in the process, notably DTAS and COSS. We broadly welcome the increased use of community asset transfer resulting from the Community Empowerment (Scotland) Act, particularly where this has benefited community-led organisations representing and working with disadvantaged groups. We have some concerns that ownership transfer is often uncritically equated with empowerment, with some organisations concerned that, in some cases, it can feel like the foisting of unwanted responsibilities onto communities.

From our own research and learning on asset transfer, some of which took place before Part 5 of the Act was implemented, we offer the following reflections on the current and future development of asset transfer in Scotland;

- There is a more diverse menu of potential community control options and these are clearly described in the Act, with examples of ownership, leasing agreements and other forms of community use. We have worked with community groups that would potentially benefit from being able to increase their use of an asset but may not necessarily want to own it. We therefore believe that there is a need for options other than buying to be better promoted and supported as the Act itself suggests should be the case.
- We favour groups being able to choose community control options which suit their needs based on fair processes which foreground good outcomes for communities. This should be supported by tenure options which suit these outcomes and adequately balance the current emphasis on full ownership transfer with the other options, either in their own right, or as part of a staged process. Public bodies should therefore be encouraged to develop fairer/better leasing or use arrangements, possibly through national community sensitive templates and processes which foster co-production. This is necessary to address the current situation where full transfer is favoured with other options only available on less favourable terms.
- Regardless of the form of tenure involved – whether leasing or ownership – community groups can find the process of taking over assets difficult and legally complex. Public bodies and support organisations need to be honest about dangers and pitfalls as well as opportunities. The key building block of the process should always

be to assess the available options even-handedly and assist groups to take a path which best suits their needs and aspirations. Whilst agencies such as COSS do this as a matter of course, this support is in relatively short supply locally and some groups report their options being narrowed at an early stage partly because they are unable to find the right support.

- In some cases, funding has driven the options in community asset transfer towards ownership (as opposed to outcomes) as it is difficult to secure adequate grant aid for development on leased buildings. This can lead to pressure for less viable assets being “offloaded” onto communities in order to secure investment in them. We believe that more balanced financial models need to be developed with communities, asset owners and funders, which emphasise strong partnerships and secure models of control. Participation requests could be better promoted as a way of achieving this.

- Ownership, leasing and use of land and buildings bring both benefits and challenges, and much depends on the local context, including the aspirations and capacity of the communities involved. Factors known to contribute to successful community control of assets, such as the encouragement of extensive community participation and the creation of a sense of local ownership, can be fostered in both owned and leased assets.

Local Government and Communities Committee

21st Meeting, 2020 (Session 5), Wednesday 9 September 2020

Subordinate Legislation

Overview of instrument

1. The following instrument, subject to negative procedure, is being considered at today's meeting:
 - Town and Country Planning (Emergency Period and Extended Period) (Coronavirus) (Scotland) Regulations 2020 (SSI 2020/254)

Background

2. The Coronavirus (Scotland) Act 2020 includes provisions to extend the duration of planning permission and the Coronavirus (Scotland) (No.2) Act 2020 includes provisions to extend the duration of listed building consent and conservation area consent. Those permissions or consents which are due to lapse during the defined "emergency period" would under the provisions lapse at the end of "extended period" if works have not been begun.
3. The "emergency period" is, as defined in both Acts, the period from the day the respective Act was commenced and expiring 6 months later. For planning permissions this period is from 7 April 2020 to 6 October 2020 and for listed building and conservation area consent it is from 27 May 2020 to 6 October 2020.
4. The "extended period" is, as defined in both Acts, the period from the day the respective Act was commenced and expiring 12 months later. For planning permissions this period is from 7 April 2020 to 6 April 2021 and for listed building and conservation area consent it is from 27 May 2020 to 6 April 2021
5. These regulations amend the expiry of the "emergency period" to 31 March 2021 and the "extended period" to 30 September 2021.
6. The aim of these provisions is to ensure that where a full planning permission, planning permission in principle, listed building consent or conservation area consent would expire before the end of March 2021 then that permission or consent should not lapse until 30 September 2021. The permission would only lapse if development has not commenced after that time.
7. The instrument was laid before the parliament on 25 August 2020 and comes into force on 5 October 2020. It is subject to the negative procedure. The policy note for the instrument is attached at **Annexe A**.
8. An electronic copy of the instrument is available at:

<https://www.legislation.gov.uk/ssi/2020/254/contents/made>

9. No motion to annul this instrument has been lodged.

Delegated Powers and Law Reform Committee consideration

10. The Delegated Powers and Law Reform Committee (DPLRC) considered the instrument at [its meeting on 1 September 2020](#) and [determined that it did not need to draw the attention of the Parliament](#) to the instrument on any grounds within its remit.

Committee Consideration

11. The Committee is not required to report on negative instruments, but should it wish to do so, the deadline for reporting on SSI 2020/254 is 28 September 2020.

Procedure

12. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).
13. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.
14. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.
15. Each negative instrument appears on the Local Government and Communities Committee’s agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not always possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.
16. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

POLICY NOTE

**The Town and Country Planning (Emergency Period and Extended Period)
(Coronavirus) (Scotland) Regulations 2020
SSI 2020/254**

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by sections 58(3D), 59(8D) and 275 of the Town and Country Planning (Scotland) Act 1997⁽¹⁾, section 16(7) of the Planning (Listed Buildings and Conservation Areas) (Scotland) 1997⁽²⁾ and all other powers enabling them to do so. The instrument is subject to negative procedure.

Purpose of the instrument.

- The Coronavirus (Scotland) Act 2020 includes provisions to extend the duration of planning permission and the Coronavirus (Scotland) (No.2) Act 2020 includes provisions to extend the duration of listed building consent and conservation area consent. Those permissions or consents which are due to lapse during the defined “emergency period” would under the provisions lapse at the end of “extended period” if works have not been begun.
- The “emergency period” is, as defined in both Acts, the period from the day the respective Act was commenced and expiring 6 months later. For planning permissions this period is from 7 April 2020 to 6 October 2020 and for listed building and conservation area consent it is from 27 May 2020 to 6 October 2020.
- The “extended period” is, as defined in both Acts, the period from the day the respective Act was commenced and expiring 12 months later. For planning permissions this period is from 7 April 2020 to 6 April 2021 and for listed building and conservation area consent it is from 27 May 2020 to 6 April 2021
- These regulations amend the expiry of the “emergency period” to 31 March 2021 and the “extended period” to 30 September 2021.

Policy Objectives

The coronavirus outbreak has affected the ability of both planning authorities and applicants to deal with planning permissions, listed building consents and conservation area consents which are due to expire.

When planning permission, listed building consent or conservation area consent is granted, applicants have a period of 3 years to commence development (authorities can provide for a longer period). If development is not commenced then that

(1) c.8. Sections 58(3D) and 59(8D) have effect by virtue of paragraphs 8 to 10 of schedule 7 of the Coronavirus (Scotland) Act 2020 (asp).

(2) c.9. Section 16(7) has effect by virtue of paragraph 2 of schedule 4 of the Coronavirus (Scotland) Act 2020 (asp).

permission or consent lapses and a new application is required. Planning permission in principle also requires the approval of conditions before development can proceed.

The restrictions on movement and of social distancing and self-isolation has meant that applicants have been be unable to satisfy the conditions attached to their planning permission or to commence development due to the shutdown of non-essential construction. This also means that a backlog of development has occurred.

The aim of these provisions is to ensure that where a full planning permission, planning permission in principle, listed building consent or conservation area consent would expire before the end of March 2021 then that permission or consent should not lapse until 30 September 2021. The permission would only lapse if development has not commenced after that time.

In relation to applications for approval of conditions, if the last date for making an application for an approval is within the emergency period (up to 31st March 2020) then the time limit for making such an application is to the end of the 30 September 2021.

The UK Business and Planning Act 2020 came into effect on 22nd July which includes similar provisions to extend the duration of planning permission and Listed Building Consent with the emergency period designated up to 31st December 2020 and the Extended Period up to 1st May 2021.

Extending the Coronavirus Act provisions to extend the duration of planning permission, Listed Building Consent and Conservation Area Consent will support the construction sector in its recovery from the Covid-19 restrictions, reduce the burden on authorities needing to reconsider applications and provide consistency to businesses operating across the UK.

Consultation

As this is an emergency measure, and intended to be temporary, no formal public consultation was undertaken for the provisions in the Act. In deciding whether to extend the duration of these provisions we sought feedback from Heads of Planning Scotland (HOPS), Scottish Property Federation (SPF) and Homes for Scotland (HfS). As the construction sector has only recently restarted we believe that it will take some time to get back to pre-covid work levels and to work through any backlog of development.

Both SPF and HfS members have provided positive feedback on the use of the provisions to date. They believe it is vitally important that the emergency provisions for extending planning permissions are continued. Without this flexibility there is concern that several major development projects may fail to be delivered due to being timed out of permissions, potentially risking both the projects and the businesses investing in those projects.

HOPS commented that "It would be expected that by this stage agents and developers knew to progress permissions. However, authorities may not be aware of

all who are utilising the provision. Therefore it would do no harm to grant limited further extension (one suggestion was to the end of December 2020). This would also allow local authorities an opportunity to update their systems”.

Financial Effects

There will be no financial costs imposed on business or Local Authorities as a result of these changes. In fact there should be a saving for both in that applications will not need to be submitted and reconsidered, meaning that authorities can continue to focus on responding to Covid-19 and determining new applications to ensure there is a pipeline of developments for developers to progress.

Assessments

The Scottish Government has assessed the potential impact of the proposed measure on equal opportunities and has determined it does not unlawfully discriminate in any way with respect to any of the protected characteristics (including age, disability, sex, pregnancy and maternity, gender reassignment, sexual orientation, race, religion or belief, marriage or civil partnership), either directly or indirectly.

The Scottish Government has assessed the potential impact of the proposed measure on human rights. The Coronavirus Act avoids planning permission (full planning permission or a planning permission in principle), Listed Building Consent or Conservation Area Consent from lapsing because developers are not able to get on site to begin development. It also extends the period within which applications can be made for approvals required by conditions. This is to avoid time limits expiring, and so permission in effect expiring as they can no longer be implemented, just because there is a delay in being able to make applications due to the current situation. Any changes to the way that planning legislation currently may interfere with property rights by regulating development is by way of a relaxation of the current provisions and it is considered that the provisions are compatible with the ECHR.

The Scottish Ministers are aware of the duty to consult island communities before making a material change to any policy, strategy or service which, in the Scottish Ministers' opinion, is likely to have an effect on an island community which is significantly different from its effect on other communities. The Scottish Government has assessed the potential impact of the proposed measure on island communities and has determined it will have no significantly different impact on island communities. No detrimental effects are anticipated.

The Scottish Government has assessed the potential impact of the proposed measure on local government and has determined that extending the duration of planning permission for does not raise any impacts other than those highlighted in the policy memorandum which indicates that this will potentially allow developers and applicants to progress developments swiftly once current restrictions are reduced and lifted entirely. There may be a saving for local government in reducing the number of applications which are submitted seeking to extend the duration of planning permission.

The Scottish Government has assessed the potential impact of the proposed measure on sustainable development and no detrimental effects are anticipated.

DLGC: Planning Division
Scottish Government
August 2020