



OFFICIAL REPORT
AITHISG OIFIGEIL

COVID-19 Committee

Thursday 11 March 2021

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Thursday 11 March 2021

CONTENTS

	Col.
SUBORDINATE LEGISLATION	1
Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2021 [Draft]	1
Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 16) Regulations 2021 (SSI 2021/86).....	1
Coronavirus (Scotland) Acts (Early Expiry and Suspension of Provisions) Regulations 2021 (SSSI 2021/93)	1
Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 17) Regulations 2021 [Draft]	1
ANNUAL REPORT 2020-21	22
DECISION ON TAKING BUSINESS IN PRIVATE	25

COVID-19 COMMITTEE
10th Meeting 2021, Session 5

CONVENER

*Donald Cameron (Highlands and Islands) (Con)

DEPUTY CONVENER

*Monica Lennon (Central Scotland) (Lab)

COMMITTEE MEMBERS

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

*Maurice Corry (West Scotland) (Con)

*Annabelle Ewing (Cowdenbeath) (SNP)

*John Mason (Glasgow Shettleston) (SNP)

*Stuart McMillan (Greenock and Inverclyde) (SNP)

*Mark Ruskell (Mid Scotland and Fife) (Green)

*Beatrice Wishart (Shetland Islands) (LD)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Professor Jason Leitch (Scottish Government)

Michael Russell (Cabinet Secretary for the Constitution, Europe and External Affairs)

CLERK TO THE COMMITTEE

Sigrid Robinson

LOCATION

Virtual Meeting

Scottish Parliament

COVID-19 Committee

Thursday 11 March 2021

[The Convener opened the meeting at 10:32]

Subordinate Legislation

Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2021 [Draft]

Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 16) Regulations 2021 (SSI 2021/86)

Coronavirus (Scotland) Acts (Early Expiry and Suspension of Provisions) Regulations 2021 (SSI 2021/93)

Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 17) Regulations 2021 [Draft]

The Convener (Donald Cameron): Good morning, and welcome to the 10th meeting of the COVID-19 Committee in 2021. This morning the committee will take evidence from Michael Russell, Cabinet Secretary for the Constitution, Europe and External Affairs, Professor Jason Leitch, national clinical director, and Emma Lopinska, policy manager at the coronavirus legislation co-ordination reporting team in the Scottish Government.

This evidence session will give members the opportunity to take additional evidence on the draft Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2021 and the Coronavirus (Scotland) Acts (Early Expiry and Suspension of Provisions) Regulations 2021, on which we took evidence from the First Minister and the chief medical officer, yesterday. The committee will also consider the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 16) Regulations 2021. In addition, the Scottish Government has also provided the draft Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 17) Regulations 2021, which has been circulated to members.

I welcome the cabinet secretary to the meeting.

The Cabinet Secretary for the Constitution, Europe and External Affairs (Michael Russell): There is a great deal of material to get through, convener. I will divide my opening remarks into two parts.

The regulations for decision today deal with allowing a very narrow category of driving instruction and testing to take place: when an organisation has delegated authority from the Driver and Vehicle Standards Agency to carry out driver testing, it is allowed to do that even in an area that is under level 4 restrictions. The amendment impacts the Scottish Fire and Rescue Service, Police Scotland and some bus companies. The inability to carry out driver training and testing has resulted in significant operational issues being experienced by those bodies, and allowing such testing will bolster organisational resilience.

The draft Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 17) Regulations 2021, which we have provided to the committee, will bring into law the matters raised by the First Minister in her statement on Tuesday. They remove several restrictions on socialising, sport and exercise in order to provide individuals with greater opportunities for social and recreational sporting activity outdoors.

They also permit activity for election purposes in level 4 areas from 15 March, ahead of the Scottish Parliament election in May, as was anticipated in the statement that Graeme Dey gave last week. The regulations will be made later today and will come into force tomorrow, Friday 12 March. The change regarding election activity will come into force on 15 March.

I will briefly address the draft Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2021, which I will refer to as the extension regulations, and the draft Coronavirus (Scotland) Acts (Early Expiry and Suspension of Provisions) Regulations 2021, which I will refer to as the expiry and suspension regulations.

As the committee is aware, the Coronavirus (Scotland) Act 2020 and the Coronavirus (Scotland) (No 2) Act 2020 were introduced in March and May last year to provide new powers and measures to protect the public, maintain essential public services and support the economy during the current outbreak. The acts are time limited and will expire on 31 March if the extension regulations are not approved by the Parliament.

In taking the decision to extend the acts, we gave careful consideration to the requirement to balance the needs of many stakeholders and partners who wish the powers to remain available against the commitment that was given when the

acts were introduced that the provisions would not remain in place unless it was necessary. We considered each provision on its own merit. Our reasoning for concluding that the provisions that are proposed for extension are appropriate is set out in the full statement of reasons that was laid in Parliament and published on 24 February.

Keeping in mind our commitment not to keep provisions in place unless they are necessary, the expiry and suspension regulations will expire seven measures in the acts on 30 March and will suspend provision relating to marriage and civil partnerships from the same date.

The approach that we have taken, as the First Minister indicated yesterday, is proportionate and appropriate to the scale of the on-going risk that is posed by the coronavirus.

Before I conclude, I remind members that proposing that part 1 of both acts be extended does not mean that all provisions covered by the extension will remain in place until 30 September. The Scottish Government will, of course, keep the continued necessity of the provisions under review, and the required two-monthly reporting will continue. After the election has taken place, the new Government will take a position and will recommend that position to the Parliament.

I hope that that is a useful introduction to the issues.

The Convener: I understand from broadcasting staff that my video is not working. I am trying to fix it, and I hope that everyone can still hear me.

We turn to questions, and I remind members that we have approximately five minutes each for questions. If there is time for supplementary questions, I will indicate that once all members have had a chance to speak. There is no obligation on members to ask questions; if they want to let me know that they do not intend to ask questions, I ask that they do so in the chat function.

I have one question, on SSI 2021/86, the health protection regulations, which highlight the pressures that the emergency services are working under and the necessity of training further drivers to fill the gap left by those who are retiring in order to deliver emergency response services. What testing regime is in place to minimise the spread of the virus among key workers and ensure that emergency services are not affected by staff shortages? I do not know whether the cabinet secretary or Professor Leitch can help with that question.

Michael Russell: The detail of testing is an issue for Professor Leitch. I am sure that he will want to address that.

Professor Jason Leitch (Scottish Government): Good morning, everybody. Thank you for having me back.

That is an important point, convener. Symptomatic testing is available to the whole country, which applies equally to first responders as it does to the rest of us. There are individual guidance elements for what people in those jobs should do. However, testing alone does not protect us, as we have talked about many times at the committee. If there were outbreaks in a police or ambulance service environment, for example, we could send in rapid testing equipment, but people would have to self-isolate irrespective of testing, because it is about contacts and not positivity.

The testing regime is available for the emergency services just as it is everywhere else. Almost more important than the testing regime are all the other mitigations: face coverings, surface cleaning and all the other elements that we have put in place, including, as we move through the vaccination programme, vaccination.

The Convener: The next questions will be from the deputy convener, Monica Lennon.

Monica Lennon (Central Scotland) (Lab): Thank you, convener—it is good that we can see you again.

Professor Leitch mentioned vaccinations. Are student paramedics eligible to get the vaccine? That might be happening already, although I have had representations that it is not. I have been told that it is happening in Wales. Can I get some clarification on that point?

My other question is on testing—particularly asymptomatic testing—in the community. Can Professor Leitch explain the criteria for the mobile testing units? Some of those units will be in Lanarkshire for two weeks, but they are often almost gone again by the time they are advertised. What is the strategy for that over the coming weeks and months?

Michael Russell: Professor Leitch should answer those questions. I am aware that the experiment that has been done in the Highlands with the use of fire stations has been successful and well received, but the detail of those questions is important and I think that Jason should address it.

Professor Leitch: It is relatively straightforward. Students in healthcare who have front-line jobs—in wards or in ambulances—are in the vaccination programme along with everybody else who has a front-line healthcare role. However, if you are pre-clinical, you are not a front-line worker; it is all about the risk to those you serve. Student paramedics, who are at the point of being front-

line clinicians, are included with the rest of our front-line clinicians. If you have examples of that not having been done, please pass them on.

Mobile testing units are at the beck and call of local public health professionals. If the local incident management team or a local director of public health wishes to have mobile testing for whatever reason, they can call on them. We are quick to put that system in place. Your point about timing and communication is important, and it is something that MSPs, as well as the third sector and local media, can help with. We keep the units in place for as long as they are required.

The other layer is that local authorities can call on asymptomatic testing. The world's data suggests that people will not necessarily come for asymptomatic testing if it is just set up for the nation. Setting up a tent and saying, "Anybody can come. There's no real problem here, but come if you think you need it" does not work as well as targeting a region in which we think there is high prevalence and saying, "Please come. We're checking this region of high prevalence." Local authorities can put in requests for that and we will respond at short notice.

Monica Lennon: Is that based on prevalence, or do any other criteria apply?

Professor Leitch: It would be based on prevalence if it was a large area, but it might be done in micro-areas—around a workplace, for example. This is not a real situation, but, for example, if a director of public health in Dumfries suggested that something had happened around a call centre or the local authority buildings, they could call on mobile asymptomatic testing for that specific piece of the puzzle. If they thought that the issue had spread to Gretna, they could put a mobile testing unit there and we could put out our communication to the whole community.

Monica Lennon: That is helpful. Thank you.

John Mason (Glasgow Shettleston) (SNP): I have a couple points to raise on what came out of Jeane Freeman's letter, which came to MSPs yesterday. One point was about carers self-identifying and having to register themselves. If I am correct, that process has not started yet. Do carers need to do anything at the moment, or should they just wait?

Michael Russell: Professor Leitch might have a response to that. If he does not, we will get you that information quickly.

Professor Leitch: I have some of it. The only bit that I do not have in my head—I looked for it there—is the date on which the portal opens. That might be in the letter, so Mr Mason might have the date in front of him.

Michael Russell: We will ensure that the information is provided.

Professor Leitch: There are two ways in which carers can be identified. One is with carers allowance: we know who those individuals are, their addresses and how to get to them. Their health boards will catch up with them and they will get invitations. The second way is self-identification. We need people to use their common sense. We need people who are genuinely carers to come forward, and we will have a portal through which that can happen. General practitioners also know quite a lot about the caring responsibilities that their registrants have, so they will be able to put people on to that system.

10:45

It is a big group, and it is probably the most complex group, along with those who have pre-existing conditions, so we are keen to reach as many carers as we can. However, we are also keen that it is not an excuse for people to randomly apply for a vaccination—that is not the purpose. The purpose is to protect those individuals and those they care for. There will be a portal through which people can self-register, and it will be open soon—I just cannot remember the exact date.

John Mason: That is great. I understand from Jeane Freeman's letter that cohorts 6 to 9 are being vaccinated in parallel. Is that what is happening?

Professor Leitch: That is kind of what is happening. We are giving the health boards flexibility to do that, as they require. That creates some tension, particularly on social media when someone who is 64 finds out that their neighbour who is 60 is getting to go before them. Do not look for an exactly smooth process of working down the age categories. We have now vaccinated 30 per cent of over-50s, for example, principally because we have caught most over-50s who have pre-existing conditions.

In the island communities, one of Orkney and Shetland has now vaccinated 50 per cent of its population. There is some flexibility, depending on supply and availability, to allow health boards to vaccinate certain groups more quickly than will be the case in larger urban areas. We need people to be patient with us, but the endpoint is the same: mid-April for groups 1 to 9 for the whole nation. However, in order not to have everybody finish on Monday, have Tuesday off and start again on a Wednesday, we are trying to bring everybody in together, so that we can keep that high number of people moving through the system.

Mark Ruskell (Mid Scotland and Fife) (Green): Last week, the committee heard strong evidence from Inclusion Scotland about the impacts of the crisis on people with disabilities. Inclusion Scotland's point was that there is a lack of statistics, a lack of data and a lack of reporting. What is your response to that? We are working our way through the crisis, but how can we improve that? Does it make sense to have some of that information on the dashboard?

Will you comment on your wider approach to health inequalities? I have particular concerns about the black, Asian and minority ethnic community and deprived communities. How can we ensure that we understand the health impacts on particular groups who are facing a huge amount of growing inequality as a result of the crisis?

Michael Russell: I would like Jason Leitch to address the issue of health inequalities. On the basic question of what we should take on board, as a Government, as a Parliament and as a society, to ensure that we publish information—and that we collect information; it is not just about publishing information—and that we present that information in a way that is understandable, we are very open to continuing change and development of that. There is no resistance to that. However, it must be done in a way that is reasonable and that adds to our ability to change and develop policy. I am sure that you will agree with that. It cannot be done separately from that; therefore, we need to be absolutely certain that we are not just collecting things for the sake of it without putting the information in context or presenting it in a useful, helpful way.

That is what we need to do, and we are very open to it. I am happy to look at the evidence and come back to the committee to say how we are going to handle it and take it forward. You are right to say that that sits within the wider context of health inequalities, and Jason might want to address that.

Professor Leitch: I will look into the specific point from Inclusion Scotland in detail. I know that it came up during Gregor Smith's evidence to the committee yesterday. He and I spoke briefly after his appearance, and that was one of the points that he made. We will look into Inclusion Scotland's specific requests and the specific analysis that might be required. We will ask our analysts, "Is that happening?", "Can it happen?", "Is it difficult?" and so on. We will be very happy to speak to Inclusion Scotland about its views on that.

Your broader point about inequalities ventures into politics, which I will avoid. With an election coming up, I will avoid it even more. Factually, I can tell you that infectious disease exposes

inequality. We have said that before. Every infectious disease, whether it is tuberculosis, flu or Covid, has a gradient of harm based on someone's social demographic. It is not universal. Some very well off people have died and some very poor people will survive. It is not binary, but inequality is exposed by infectious disease.

Inequality is not caused by infectious disease, and therefore we have to go upstream, which is what Sir Harry Burns taught me when I was a young man. It is to do with poverty, housing, criminal justice and education—the whole public sector. I assure the committee that that is considered in the decision making and in the advice that we give. One of the four harms—harm number 3—is social harm, and the principal adviser on social harm is Carol Tannahill. Perhaps I should not offer up witnesses, but the committee might wish to hear from her at some point. She is a public health professional who has made the inequalities of population health her life's work, and she leads our analysis, information and advice around social harm from both the virus and our response to the virus. That is included in our four harms assessments, which go to Mr Russell and others to make the decisions.

Mark Ruskell: Thanks. I will leave it there.

Beatrice Wishart (Shetland Islands) (LD): I want to ask about the DVSA and driving lessons, although I appreciate that the DVSA is a reserved issue. Even though the northern isles are in level 3, it is not possible to get a driving examiner to come from the mainland to conduct driving tests because the restrictions do not allow travel. What do you say to the young people in the northern isles who are desperate to take their driving tests and see that they are in a lower level than their mainland counterparts?

Michael Russell: I would say to them what I say to constituents who come to me in similar circumstances, sometimes living in islands that are also at level 3.—[*Interruption.*] I do not know whose phone that is. Sorry—I think that it is mine. It was my phone; Jason Leitch was obviously enjoying that.

I would also say, and have said, to a constituent who needed a driving licence—they had come from another country with a licence that was about to expire and could not get a test—that I have tried to persuade the DVSA to show some flexibility in those circumstances, but it is a Westminster matter. I am sure that you have done as I have and asked the Cabinet Secretary for Transport, Infrastructure and Connectivity what he can do. The Scottish Government has indicated that it would like there to be some availability in exceptional cases of hardship, but that has not yet happened. That would have been the answer—to find a way for it to be done in exceptional cases of

hardship. The flexibility that is being shown with bodies that are allowed to operate what are called delegated driving examiners has been useful. More than 300 tests were deferred by bus companies. Because they could not operate, that allowed a bit of the difficulty and shortage to be dealt with. I would very much—[*Inaudible.*]—get back to normality in driving tests as soon as possible.

Beatrice Wishart: That is helpful. We all understand that there will be a backlog when restrictions are eased.

Turning to issues with vaccinations, I have been contacted by separate constituents aged over 65, one of whom is temporarily resident in England and one in Northern Ireland. They are there for legitimate reasons, but they have been unable to receive their vaccination in Shetland or to register as a patient in their current location and receive it away from home. Are there any formal reciprocal arrangements between Scotland and other nations of the United Kingdom for such a situation?

Michael Russell: Jason Leitch should address that. We have all had constituency cases involving individuals who have not necessarily been registered with a GP and who may have found themselves excluded in some way. Health boards have made special arrangements to ensure that those people are included. Jason Leitch might have more information.

Professor Leitch: The issue is more complex than it sounds initially. It involves people moving in all directions, for whatever reasons, during the biggest vaccination programme in UK history. People might have had to move in to care for somebody or move suddenly for a job. There are challenges. The best advice is for people to try to be registered with a general practitioner. That will catch most people who move. People should talk to the local healthcare system where they are, and the best way into that is through a GP, whether that is somebody moving to Shetland or moving out of Shetland or any other area. Failing that, if someone is somewhere very temporarily, we will catch them when they go back. Someone who is in the middle group—those who have not moved but who are not just in a place for two or three weeks—will have to contact the local health delivery system.

We have systems in place in Glasgow and Edinburgh for people who come here. I am not in charge of and I do not know about the systems in England, Ireland and Wales, but I am certain that those systems would find ways around the issue. If there are individual cases where we do not manage that and the situation gets too complex, people should write to us and we will try to unravel it for them.

Beatrice Wishart: Thank you—you can expect a letter shortly, because the people who I mentioned have tried the options that you suggested.

Annabelle Ewing (Cowdenbeath) (SNP): I have just a few questions. Some of the issues that I thought about raising have been asked about, and answers have been given.

Last week, I asked Michael Clancy of the Law Society of Scotland—I should remind everybody that I am a member of the Law Society of Scotland—whether he thought that there is any alternative to the extension of the emergency legislation, taking into account the facts that we are still in lockdown, the pandemic is still very much with us, the Parliament is about to go into recess and we will then have an election, with a new Parliament elected on 6 May. He responded that he does not see any alternative to the extension of the emergency legislation. Will the cabinet secretary comment on that?

Michael Russell: I think that Michael Clancy is right. The legislation expires on 31 March. Of course, we have renewed it once, and it can be renewed once more, but renewing it does not mean that it has to be in place for the full six months. Any or all of the items could be suspended or got rid of at any stage. However, if we were not to renew it, the framework that we have to allow us to operate in the current circumstances would disappear and we would have to construct something else in its place. At a time when we have five sitting days left in the parliamentary session and we will then have an election and the formation of a Government, it is just inconceivable that we would not renew the legislation.

We have tried hard to examine the contents of both the Scottish Coronavirus Acts. Clearly, we do not have total control of the UK legislation, but we have examined carefully where we are and we have tried to make sure that we get rid of the things that we do not think are needed. We have been clear about that in the statement of reasons that we published. I do not believe that there is an alternative, but nobody wants the legislation to be in place for any longer than it has to be, and the new Government coming in will be able to take instant action, as will a new Parliament if it chooses to do so. Therefore, it would be foolish at this stage to get rid of the legislation and say that we do not need it. That would be playing to a perhaps vocal but small, not representative and quite dangerous gallery.

I do not know whether Jason Leitch has a view on whether regulation should continue. Given the nature of the pandemic, the advice that the Cabinet has received is that there is still a distance to go in this matter.

Professor Leitch: I will give some context, rather than a view on how the Parliament and parliamentarians should react to that context, which is not an issue for me.

11:00

The context is that the pandemic is accelerating in a lot of the world. In half of Europe, the figures are still going up. This morning, I looked at some numbers for European countries in light of news about the new variant. More than 60 to 70 per cent of Sweden's virus is the Kent variant, and its numbers are rising. Numbers in the Czech Republic are rising, as they are in Hungary, and so on. In Europe, 1 million people caught the virus in the past seven days and, after six or seven weeks—forgive me for not knowing exactly—of deceleration across Europe, the figures have now upticked.

Fortunately, we are still on the downward slope and we are confident that gradual opening and all the things that we are doing will cause us to stay on that downward slope, but we cannot guarantee it. No country has opened with the new variant at 90 per cent of its virus—no country in the world. We are first. That causes us to be very cautious.

Our advice is therefore that we should keep the restrictions in place. The nature of those restrictions is the debate that we are now having about the next few weeks and months. The gradual easing over three-week periods, what we do for schools and how we prioritise individual freedoms, places of worship and all those other things are all different questions. However, the advice is very clear that the country still needs to take safety measures.

Annabelle Ewing: I thank the cabinet secretary and Professor Leitch for those fairly unequivocal responses.

My second point concerns the welcome development that I think is to take effect from today, which is four people from two households being able to meet outside, including for social purposes. Constituents have certainly contacted me about the lack of clarity around how that sits alongside the travel restrictions, so it would be helpful if there could be a clear statement about that, in case anybody is under any misapprehension about the fact that the travel restrictions are still very much in place.

Michael Russell: Let me just make it very clear. I am sure that everybody welcomes that from tomorrow—and I should make it clear that it is from tomorrow, Friday 12 March—four people from two households will be able to meet. People have not been able to do that since Christmas, so it is very welcome. However, there is still a requirement for people to stay at home. They

should continue to stay at home and work from home and so on.

It is possible to travel shortish distances, essentially 5 miles outside your own local authority area, but only for very narrow reasons. The regulation says that people should stay at home.

As time goes on, and I know that the First Minister will address this on Tuesday, we will get some indicative dates for when we can move on from there, but this is a small and significant step.

Other important things are happening, as Annabelle Ewing knows, including non-contact sports and gatherings of young people. There is also an indication of when the restrictions on church services and the opening of church buildings will be lifted, provided things are still moving in the right direction. It is all in there. This is a small step, and people should treat it as a small step, but it is a welcome small step because, from tomorrow, four people from two households can meet together, out of doors, properly distanced and being careful. That is a good step forward.

Annabelle Ewing: I am sorry, cabinet secretary; I was a day ahead of myself. It has been that kind of week.

Michael Russell: We can all be a day ahead of ourselves.

Annabelle Ewing: My final question picks up on the issue of non-contact sports, which I wrote to the sports minister about a while back. In this case, it is the issue of young gymnasts in Scotland who have not been able to train, which is different from the position that I understand is taken south of the border. Assuming that the Olympics still go ahead, they are concerned that they will be much further behind the curve. Professor Leitch, what consideration can be given to the particular set of circumstances around elite athletes?

Professor Leitch: That is a good question. Elite athletes are exempt, but within very strict restrictions, and the sportscotland website is the place to go to for that information. I am afraid that some youth training—and training further down the pipeline—is restricted.

I have a great family friend whose 10-year-old is up there with Scottish Gymnastics and hopes to be one of those future Olympians. He is spending his time doing training outdoors and in his home and, this week, he is raising a great deal of money for Epilepsy Scotland by doing 5,000 turns on a pommel horse, so perhaps he should get a special mention. However, the point is still well made that the pandemic will require us to catch up with some of that.

The high end is still allowed; it has privileges and responsibilities inside those privileges, and

sportscotland has done everything that it can. We have an elite sport advisory group, which is chaired by one of my colleagues, and we have tried to keep as much of elite sport open as we can, particularly to allow those Olympians and Paralympians to go to the next versions of those events. The time after that and the time after that is what we have to catch up on.

Annabelle Ewing: I thank Professor Leitch for that answer. Obviously, my constituents will remain disappointed with the on-going restrictions and I hope that the matter can be kept under constant advisement because, for those young people, it is their first moment and they feel that they will completely miss out, whereas their competitor colleagues down south will not, and that is a real shame. I hope that it can continue to be looked at.

Maurice Corry (West Scotland) (Con): My questions are on driving tests and vaccinations for seafarers.

Cabinet secretary, key workers such as nurses, carers and occupational therapists require a driving test to help with their work and they are needed, particularly in remote areas of the country. Can they not have the same privilege as emergency services workers to get a driving test?

Michael Russell: I would very much like to see that happen but it is not in my gift; it is in the gift of the Driver and Vehicle Standards Agency. I have made representations on behalf of constituents—I am sure that we have all done the same—but it is up to the DVSA, which is a reserved body, to decide when it will reintroduce driving tests. Representation has to be made by MPs at Westminster. I know that the Cabinet Secretary for Transport, Infrastructure and Connectivity has indicated that he would like to see that change, too, but I cannot answer that question; it has to be the DVSA. However, if it were to happen, I would be very pleased and I think that it would be useful.

Maurice Corry: Is the transport secretary in the Scottish Government taking that case forward?

Michael Russell: He has said—and made it clear to me—that he wants that to happen but he cannot do anything about it. It has to come from Westminster. I am sure that we can all prevail on colleagues to get a move on with that and, given the nature of the Westminster Government, you can perhaps prevail more closely. I am sure that we will be grateful to you, Mr Corry.

Maurice Corry: We take that advice, cabinet secretary.

Professor Leitch, the Singapore Government has sorted it out so that seafarers can now return to sea vaccinated. Can the same procedure be done for our seafarers in Scotland? They are

rotating in and out of the country, back to their ships or wherever they go and home again. Can that be sorted out as a priority, particularly for those who are going off to sea this year? If the Singapore Government can do it, surely the Scottish Government can do it.

Professor Leitch: The answer to your final question is that, yes, we could, but we take our advice from the Joint Committee on Vaccination and Immunisation. The Singapore Government takes its advice from its expert group on vaccination. Our expert group on vaccination—from which we have never departed in 30 years, let me remind you—has decided not to do that at this point in the pandemic and at this point of vaccination supply. That will change once we get a regular supply of 4.5 million doses a month or whatever it becomes; there will be alternative decisions to make inside that prioritisation.

For now, the vaccine priority is to reduce death and hospitalisation from Covid, so we have to prioritise those who are most at risk of that, and that is not seafarers; that is older people and looking as we come down the age groups. The only occupational exemption to that is health and social care workers. That is what the JCVI has said and that is what the Scottish Government has decided to do. However, I do not think that that is forever, Mr Corry. As supply increases, and as we get into a regular rhythm of vaccination, exactly what you suggest will, logistically, have to be done.

Maurice Corry: From your point of view, given your expertise, how far up the list would you put seafarers, once we get into a so-called rhythm?

Professor Leitch: That will be a matter for both the JCVI and we in Government to make choices about at the time.

The flu vaccination programme is not directly comparable, because we do not vaccinate the whole population—the Covid vaccination programme is much bigger. The flu vaccination programme also takes account of risk in a slightly different way to the Covid programme, for which vaccines come in 30,000 chunks at a time and we have to work our way through the ages.

Professional prioritisation will then happen, particularly logistically. We will still want to go through the whole population as quickly as we can, which is the most important thing, but if people were on oil rigs for six weeks and missed their appointment, it would make sense to do them before they left for the oil rig. Just now, we do not have the vaccine supply to be able to do that. I would have thought that the logistics of that approach would make sense, rather than prioritising seafarers, which does not make sense.

Simply getting people vaccinated does make sense. *[Interruption.]*

The Convener: Sorry, Maurice, before we return to you, the cabinet secretary wants to come in.

Michael Russell: I will make a point about seafarers. I have had substantial representations on the subject and I fully understand the difficulty. I also understand the difficulty of people who work offshore or elsewhere and might spend a substantial amount of their time, and sometimes their own money, on being quarantined in hotels. Nothing would give us greater pleasure than to stop that happening.

Professor Leitch has been very clear that we will not, and should not, depart from the JCVI recommendations. That is what we are trying to follow. On almost every occasion that we have been at the committee, Professor Leitch has given evidence on our absolute determination to ensure that variants that might come here and undo all the work that is being done are kept out as far as humanly possible.

I am sure that you are not saying this, Mr Corry, but I stress that nobody is diminishing the contribution of seafarers or ignoring the difficulties and problems that they have. However, that is a realistic assessment of what we, regrettably, regard as necessary at this stage. Regrettably, we all have to say that to our constituents. I want to make that point clear. The sooner that we can move on from that situation, when we have taken the communal and joint actions needed to suppress the virus, the happier we will all be.

Maurice Corry: Thank you, cabinet secretary.

Professor Leitch, to come back to your concept of rhythm—*[Inaudible.]*—and the 4.5 million doses per month, are you able to do that?

Professor Leitch: Sorry, I missed the first part of your question.

Maurice Corry: With regard to the rhythm of vaccinations and concentrating on seafarers, can you give us a timescale for getting to that stage?

Professor Leitch: I think probably the autumn at the earliest. Although there are a lot of unknowns, we anticipate probably having annual vaccinations. That is what most of the experts in respiratory viruses and vaccination expect that we will need. That would mean a booster dose for those who have already been done, which, by the end of July, will be the whole adult population. That will probably happen going into winter 2021, although I cannot know for sure. It might be that immunity lasts long enough that we can do it in the spring; however, let us presume that manufacturing is upscaled, the world is ready, and we can do 4.5 million people in the winter of 2021.

That would make sense. For some people, it would be done alongside the flu vaccination programme; for others, it would be independent of the flu vaccination programme.

At that point, you can think about prioritising in a slightly different way, and the issue will not be so much about prioritising, because you will still be vaccinating everybody, but about the logistics of the vaccination programme, which will look different. For example, you might vaccinate young people in colleges, because they will be in the colleges. We probably would not vaccinate everybody at the Louisa Jordan, but we might vaccinate people at their GP practices when they get their flu vaccine, if they are in that group. It is not so much that priorities would change, as that we would change the way that we deliver the service.

11:15

Maurice Corry: Thank you both. I appreciate your answers. It is good to get some meat on the bones.

Stuart McMillan (Greenock and Inverclyde) (SNP): I have two questions, which are probably for Professor Leitch. The first is to do with asthma and the vaccine. The NHS inform website mentions:

“asthma that requires continuous or repeated use of systemic steroids or with previous exacerbations requiring hospital admission (patients who are well controlled on asthma inhalers are not eligible in priority group 6 for coronavirus vaccination)”

I am seeking clarification. Does that mean that if someone has ever been hospitalised due to asthma, they will be vaccinated? Also, how recently should someone have been on systemic steroids to qualify?

Professor Leitch: Thank you, Mr McMillan—it is good to clarify. The first point to make is that everybody will be vaccinated—every adult—by the end of July. We are only talking about bringing people forward into group 6. Every asthmatic in the country will be vaccinated.

The second point is about who goes in group 6. That is quite a difficult judgment for the joint committee, because asthma is a continuum—it is a long line of disease, a bit like many other diseases. It is not binary. The risk with asthma increases as the asthma gets more severe. The committee’s cut-off is exactly what you have just read out from NHS inform. There is no statute of limitations on the hospitalisation—there is no time limit with regard to when someone was hospitalised—but there will be a clinical judgment to be made by those who put people into group 6. There is a time limit on the steroids, because the

use of steroids is a more recent way of judging severity than other ways.

Stuart McMillan: Can you tell me what that time limit is for the steroids?

Professor Leitch: It is exactly what you read on NHS inform. It is the number of doses within two to three years, or something like that.

Stuart McMillan: My second question is to do with care homes; once again, it is more directed to Professor Leitch. Last week, I was contacted by a constituent whose husband is in a local care home. They have three adult children. As a family, they are discussing what they need to do to determine which of the adults in the family can be a second visitor. Various things have been discussed. Would they be allowed to change who the visitor is every two weeks, so that the father would be able to see all his children at some point over time?

Professor Leitch: This is so difficult, Mr McMillan. We would ask them not to do that at this stage of the pandemic. The reason is that we are trying to cut down the number of human interactions and the number of different people who anyone interacts with. I know that that sounds so harsh and so horrible.

I am very hopeful that, as we come out of the pandemic, we will be able to make those care home restrictions even more relaxed—although they are hardly relaxed now. There will be an opportunity to add more people in there, but just now we would like people to stick with the two designated visitors, bearing in mind that other visits are allowed at times of crisis, such as end of life, distress and other times when people might wish to do that. However, for a family, there are two designated visitors. It is so difficult, but we ask people to make that choice.

Stuart McMillan: Thank you.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): We are hurtling toward Easter, although it does not feel like it here in Ayrshire, where it is still pretty cold. Nonetheless, can you perhaps offer our garden centres and nurseries a wee glimmer of hope that, over the next few weeks, there might be some kind of relaxation that might apply to that sector? As you know, they operate pretty much in the outdoors for substantial parts of their business. Is there any crumb of comfort that you can offer to the garden centre and nursery sector?

Michael Russell: There is a crumb of comfort for us all. I am very supportive of the garden centre sector—I am supportive of all the sectors. The crumb of comfort is that, if we continue to go the way that we are going, work very hard to keep the progress that we have, screw the nut—if I may use the phrase—on this, and make sure that we

do what we need to do, we will all be in a better position, week by week and month by month.

Just as I am making it clear in relation to the regulations, this will not last longer than it needs to last. However, if we do not do those things, not only garden centres will find it difficult, everybody will find it difficult. That is why we all have to make sure that we keep moving forward. As the First Minister has indicated, she will try to give some more indicative dates on Tuesday. We will keep a very close eye on the data that is coming to us. The cabinet considers that very carefully every single week and, of course, between meetings as well.

We will get there. We should give everybody the hope that we will get there and that we are getting there. The huge sacrifices that we have seen are paying off, but we have to keep together on this. I do not know what Jason wants to add to that, but it is really important that that message gets out there.

Professor Leitch: I was going to make the same jump from that individual question to hope for the country. Each sector of course wants to be open. Each sector also thinks that transmission does not happen inside its environments—let us be clear: that fact still arises in the email correspondence that I get. However, garden centres have outdoor space and they are able to do things more safely in some parts of their environment than in others. I think that the levels system will talk about that kind of retail and at what stage of the pandemic it will be allowed in each region of the country. I think that they can have hope as long as the numbers continue to fall.

The Convener: That concludes our consideration of this agenda item. As ever, I thank the cabinet secretary, Professor Leitch and Ms Lopinska for their evidence and attendance.

Under agenda item 2, we will consider the motions on the regulations on which we have just taken evidence.

Cabinet secretary, would you like to make any further remarks on the SSIs before we consider the motions?

Michael Russell: No—I am quite content, thank you.

Motion moved,

That the COVID-19 Committee recommends that the Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2021 [draft] be approved.—[*Michael Russell*]

The Convener: If any member wishes to speak on the motion, they should indicate that by typing R in the chat box.

At this stage, I advise that I have some comments to make from a party perspective, and not as convener.

I am troubled by the extension of the emergency legislation for a further six months to September 2021. I say that in full recognition that the Scottish Government and the cabinet secretary have taken a constructive approach to those matters and have, for example, expired some redundant provisions. However, last week, we heard powerful evidence at this committee from Inclusion Scotland, representing disabled groups, and from the Scottish Police Federation. From very different perspectives, they were of the view that, instead of simply extending the legislation, we should at this point take stock. I agree with that.

A full year has passed and much has happened within that time. It is correct to analyse what has worked and what has not worked, especially in light of the impact of emergency legislation on civil liberties and human rights. It is also worth noting that the Scottish Coronavirus Acts, which are the subject of this potential extension, do not contain health protection measures or the power to make health protection measures.

None of us wants emergency legislation to persist, but it is significant that we are about to enter into an election period. When a new Parliament is elected and a new Administration is formed, it is likely that we will have to continue to suppress the virus. We will be much further along in terms of vaccination and, hopefully, the virus will be in full retreat. Accordingly, we should be in a much less restrictive position in terms of our everyday lives. In my view, therefore, it would be right for a new Administration, with an electoral mandate, to decide at that point whether emergency legislation was required and, if so, in what form. For those reasons, I will vote against the motion.

Does any member want to comment before I turn to the cabinet secretary?

As no one wants to comment, cabinet secretary would you like to make any remarks?

Michael Russell: Only to say that I am disappointed to hear that the Scottish Conservatives have taken that position. It seems to me that there is nothing in what I have said or what the regulations say that is inconsistent with the view that an incoming Government can take stock and consider the situation again. Indeed, I emphasised that at the very beginning of what I said. However, the proposal from the Scottish Conservatives would leave Scotland without the defence that comes from the regulations. I think that that is a foolish thing to do and that it is letting the people of Scotland down. I hope that other members of the committee will stand up for the

people of Scotland and ensure that the regulations continue and that the legislation remains in place. So doing means that, after the election, the new Government and the new Parliament can make decisions.

I regret that that type of politics has entered the situation. In my view, it is very much the wrong thing to happen, and I hope that the committee will continue to support the legislation.

The Convener: The question is, that motion S5M-24235 be agreed to. Are we agreed?

We are not agreed, so there will be a division. In the chat box, please type Y to vote for the amendment, N to vote against the amendment, or A to abstain.

For

Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Ewing, Annabelle (Cowdenbeath) (SNP)
Lennon, Monica (Central Scotland) (Lab)
Mason, John (Glasgow Shettleston) (SNP)
McMillan, Stuart (Greenock and Inverclyde) (SNP)
Ruskell, Mark (Mid Scotland and Fife) (Green)
Wishart, Beatrice (Shetland Islands) (LD)

Against

Cameron, Donald (Highlands and Islands) (Con)
Corry, Maurice (West Scotland) (Con)

Motion agreed to,

That the COVID-19 Committee recommends that the Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2021 [draft] be approved.

The Convener: I invite the cabinet secretary to move motion S5M-24188.

Motion moved,

That the COVID-19 Committee recommends that the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 16) Regulations 2021 (SSI 2021/86) be approved.—
[Michael Russell]

Motion agreed to.

The Convener: The committee will, in due course, publish a report to the Parliament setting out our decisions on the statutory instruments considered at this meeting.

That concludes our consideration of this agenda item and our time with the cabinet secretary and his supporting officials. Thank you for the time this morning, cabinet secretary. Please feel free to leave the meeting.

11:30

The Convener: We move on to agenda item 3, which is consideration of the evidence that we heard earlier in the meeting on the Coronavirus (Scotland) Acts (Early Expiry and Suspension of Provisions) Regulations 2021 (SSI 2021/93). It is a negative instrument, which means that the

Parliament has 40 days in which to consider any motion to annul it. We have taken evidence on the instrument from the Cabinet Secretary for the Constitution, Europe and External Affairs this morning, and no motion to annul it has been lodged.

Does any member wish to make any further comments on the instrument before our consideration is concluded? If so, please indicate that by typing R in the chat bar.

I note that no member has indicated that they wish to comment. Are members therefore content that this concludes our scrutiny of the instrument?

It appears that members are content and that we have no recommendations to make on the instrument.

Annual Report 2020-21

11:31

The Convener: We move on to agenda item 4, which is consideration of our draft annual report for the parliamentary year from 12 May 2020 to 4 May 2021. I invite comments from members.

Willie Coffey: It is a good report.

The Cabinet Secretary for the Constitution, Europe and External Affairs and Jason Leitch have appeared in support of the committee a substantial number of times, and I was hoping that members might agree to recognise that in the text. I am having a look through the report, but I cannot see anything that might reflect that sentiment. I am hopeful that members would agree to recognise the substantial nature of the support that both of them have given to the committee.

The Convener: That is an excellent point. The clerks will note your comment, and any others. It is entirely feasible for us to acknowledge that. There will be some further minor changes, just to update the witness numbers and to clarify any typographical errors. I think that we can easily include a line along the lines that you have suggested—that is a good point. I note that Annabelle Ewing agrees with that.

John Mason has indicated that he has a comment on paragraph 59.

John Mason: It is just to say that that paragraph answers Willie Coffey's point. It refers to the number of times that Mike Russell and Jason Leitch have come before the committee. We could perhaps add something about how much we have appreciated that.

The Convener: Yes—it is important to acknowledge their attendance beyond simply stating how many times they have attended. It would be right to put in a brief line about our appreciation for their consistent attendance at the committee. If anyone disagrees with that, please let me know now, but I think that it is a good point well made.

Monica Lennon: I agree with the comments that have been made. I recognise not only that the cabinet secretary and his officials, and Jason Leitch, in particular, have attended almost every week, but that they have been very good at following up questions with written answers when they have not been able to give the information on the day. We have all had to work at pace.

It is a good report, and it is good to see the range of witnesses mentioned, as well as the important contribution of the citizens panel.

I thank all the members who have served on the committee at various times. In particular, I thank the clerks, who are often unseen as they work behind the scenes, and everyone who has been involved with broadcasting. We have met a huge number of times and we have had long meetings. There have been some technical issues along the way, but I think that we have been able to be really inclusive and to capture the views of the public, which is really important. I am grateful to everyone who has been on the committee. The report is a good reflection of the work that has been done.

The Convener: Thank you, Monica. I echo those sentiments.

Mark Ruskell: I agree with those comments from Monica Lennon. The committee has made substantial progress in the past six months. In particular, bringing in independent advisers has led to real progress, as we have deepened our understanding as a committee and increased our ability to scrutinise Government.

The work that the Parliament continues to do on deliberative democracy, which includes bringing in the citizens assembly and citizens panels, is really worth while. I think that that is an area that the whole Parliament needs to continue to reflect on.

The Government's commitment to come in every week and be placed under scrutiny has been important. That is what Governments should do, but I am appreciative of the time commitment that has been made for that, particularly by Mike Russell and Professor Leitch.

The annual report, which is good, captures the fact that we have started to take a forward look at things. Previously, the committee was perhaps quite reactive—for example, in looking at made affirmative regulations—but we have started to look at long-term strategy for how we deal with pandemics such as Covid.

The committee has had to learn a lot in the past year, but it has done some fantastic work. If we have to meet once or twice during the recess in order to continue the scrutiny, that is just something that we will need to do.

Maurice Corry: I concur with all the points that the convener, Monica Lennon and Mark Ruskell have made. It is important that we recognise the work that goes on behind the scenes, led by Sigrid Robinson and her team, because we could not do our work without them.

Mark Ruskell made an interesting point about the forward-looking nature of our work. We have had some interesting discussions on the citizens panel. That is part of the forward-looking approach that we take in this Parliament, which is inclusive.

The committee has done good work in the past year, and I have enjoyed being a member of it. I

wish the committee well in the next session. I thank everyone who has taken part and the clerking team that has supported us so well. Thank you, everybody.

Annabelle Ewing: I entirely agree with the comments from colleagues. Another important point to stress is that the committee has given members of the public the opportunity to follow some complicated issues in more detail, week by week. That is really important when we are all struggling to deal with the various strands that have come to the fore as a result of the pandemic.

I, too, thank everybody who has made that possible, including all those behind the scenes, the clerks and broadcasting. Otherwise, we would just be talking to ourselves, which would not necessarily be a good thing.

The Convener: I note that Stuart McMillan has commented on Mark Ruskell's point about looking forward.

Our clerks will note those remarks and, if we require to amend the annual report in any way, that will be done.

Maurice Corry has another quick point.

Maurice Corry: I think that we have all noticed that, more and more, the committee's deliberations are being broadcast. We have seen references to the committee nearly every week. That shows how valuable the committee is.

The Convener: Thank you, Maurice. I agree that it is a valuable committee.

As all members who wish to comment have done so, I invite members to agree to the committee's annual report and to delegate final sign-off of the report to me as convener. If any member disagrees, they should type N in the chat box.

I note that no member disagrees, so we will proceed along those lines.

Decision on Taking Business in Private

11:40

The Convener: We move on to agenda item 5. Members will be aware that we intend to consider the committee's legacy report at our meeting next week. I invite the committee to agree to consider the legacy report in private at future meetings. If any member disagrees, they should type N in the chat box now.

I note that no member disagrees, so we agree to consider the legacy report in private at future meetings.

That concludes our business for today. Our next meeting will take place on Thursday 18 March. The clerks will update members on the arrangements for that meeting in due course.

Meeting closed at 11:40.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba