

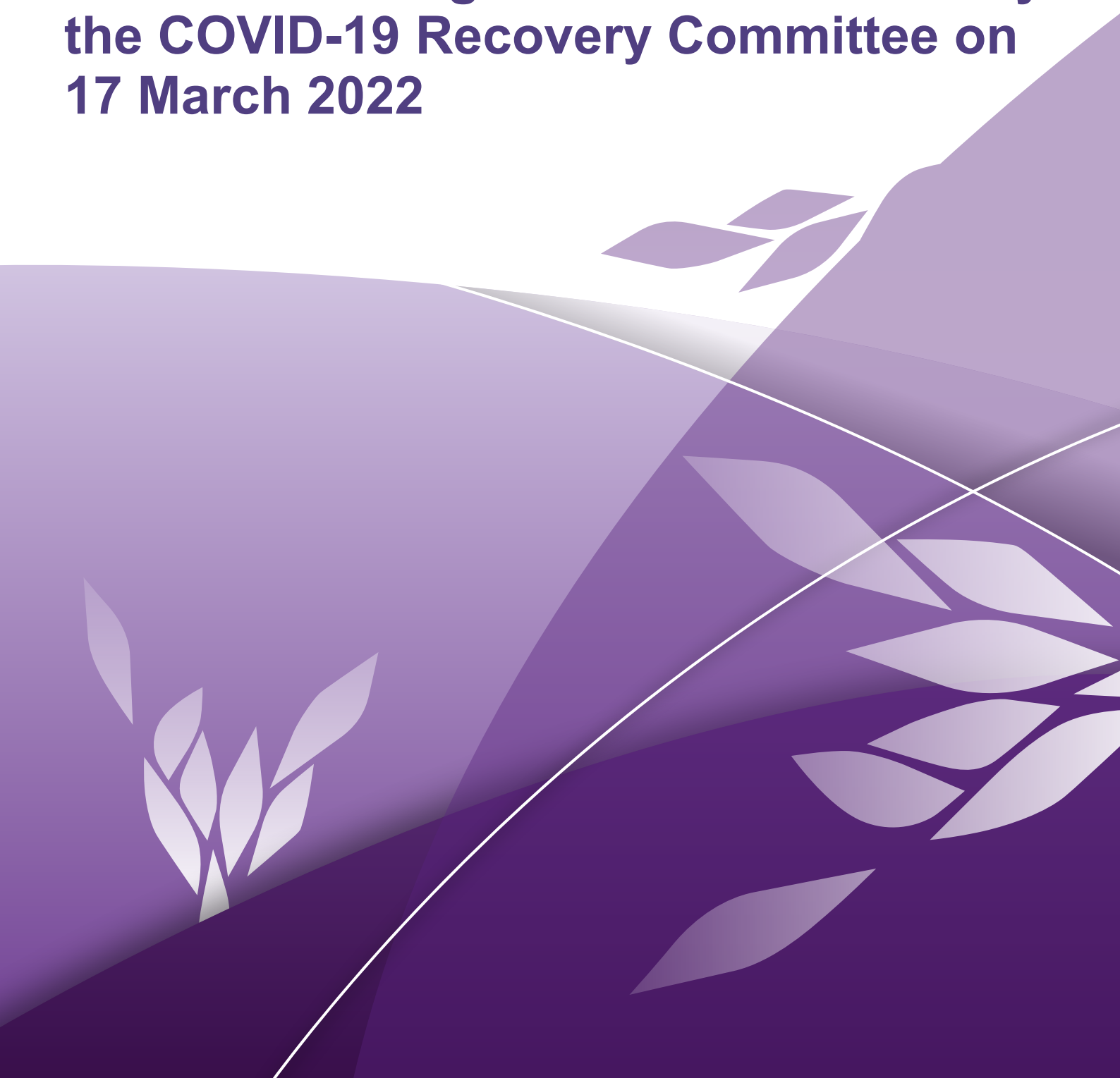


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## **COVID-19 Recovery Committee**

# **Subordinate Legislation Considered by the COVID-19 Recovery Committee on 17 March 2022**



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# COVID-19 Recovery Committee

To consider and report on matters relating to COVID-19 falling within the responsibility of the Cabinet Secretary for COVID Recovery and other Scottish Ministers where relevant, including—

- (a) Cross government coordination of COVID-19 recovery policies and strategic review;
- (b) the operation of powers under the Coronavirus (Scotland) Act, the Coronavirus Act and any other legislation in relation to the response to COVID-19;
- (c) any secondary legislation arising from the Coronavirus (Scotland) Act; and
- (d) and any other legislation or policy in relation to the response to COVID-19.



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# Committee Membership



**Convener**  
**Siobhian Brown**  
Scottish National Party



**Deputy Convener**  
**Murdo Fraser**  
Scottish Conservative  
and Unionist Party



**Jim Fairlie**  
Scottish National Party



**John Mason**  
Scottish National Party



**Alex Rowley**  
Scottish Labour



**Brian Whittle**  
Scottish Conservative  
and Unionist Party

# Introduction

1. This report sets out the COVID-19 Recovery Committee's consideration of Scottish Statutory Instruments (SSIs) at its meeting on 17 March 2022. The minutes of the meeting have been published on the Committee's [webpages](#). The Official Report of the meeting will be published on the Committee's [webpages](#) in due course.

# The Coronavirus Act 2020 (Alteration of Expiry Date) (Scotland) Regulations 2022 (SSI 2022/40)

2. [The Coronavirus Act 2020 \(Alteration of Expiry Date\) \(Scotland\) Regulations 2022 \(SSI 2022/40\)](#) were laid on 3 February 2022. The instrument was made in exercise of the power conferred by section 95(2) and (6) of the Coronavirus Act 2020 ('the Act'). The instrument was laid subject to the made affirmative procedure by virtue of section 90(2) of the Act.
3. The [policy note](#) states that—
  - ” The purpose of the instrument is to change the expiry date of the following provisions of the Coronavirus Act 2020 (“the Act”) from 24 March 2022 to 24 September 2022: section 18(2) and Part 2 of schedule 13 (registration of deaths and still-births); section 36 (vaccination and immunisation); section 37(2) and certain provisions of Part 2 of schedule 16 (temporary closure of educational institutions and childcare premises); section 38(2) and Part 2 of schedule 17 (temporary continuity – education, training and childcare); and section 49 and schedule 19 (health protection regulations).
4. The Delegated Powers and Law Reform (DPLR) Committee considered SSI 2022/40 at its meeting on [1 March 2022](#). The DPLR Committee agreed (by division: For 3 (Bill Kidd MSP, Stuart McMillan MSP and Paul Sweeney MSP), Against 2 (Craig Hoy MSP and Graham Simpson MSP) and Abstentions 0) that no points arose on the instrument.
5. At the COVID-19 Recovery Committee's meeting on 17 March 2022, the Deputy First Minister and Cabinet Secretary for COVID Recovery, John Swinney, moved the following motion in his name—

[S6M-03075](#)—That the COVID-19 Recovery Committee recommends that the Coronavirus Act 2020 (Alteration of Expiry Date) (Scotland) Regulations 2022 (SSI 2022/40) be approved.

6. **The COVID-19 Recovery Committee agreed Motion S6M-03075 (by division: For 4 (Siobhian Brown MSP, Jim Fairlie MSP, John Mason MSP and Alex Rowley MSP), Against 2 (Murdo Fraser MSP and Brian Whittle MSP), Abstentions 0).**

# The Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Amendment Regulations 2022 [Draft]

7. [The Health Protection \(Coronavirus, Restrictions\) \(Directions by Local Authorities\) \(Scotland\) Amendment Regulations 2022 \[Draft\]](#) were laid on 9 February 2022. The instrument was made in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020 ('the Act'). The instrument is subject to the affirmative procedure.
8. The [policy note](#) states that—
  - ” These Regulations amend the date on which The Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Regulations 2020 (“the Directions Regulations”) expire from 25 March 2022 to 24 September 2022.
9. The Delegated Powers and Law Reform (DPLR) Committee considered the instrument at its meeting on [1 March 2022](#). The DPLR Committee agreed (by division: For 3 (Bill Kidd MSP, Stuart McMillan MSP and Paul Sweeney MSP), Against 2 (Craig Hoy MSP and Graham Simpson MSP) and Abstentions 0) that no points arose on the instrument.
10. At the COVID-19 Recovery Committee's meeting on 17 March 2022, the Deputy First Minister and Cabinet Secretary for COVID Recovery, John Swinney, moved the following motion in his name—  
[S6M-03169](#)—That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus, Restrictions) (Directions by Local Authorities) (Scotland) Amendment Regulations 2022 [draft] be approved.
11. **The COVID-19 Recovery Committee agreed Motion S6M-03169 (by division: For 4 (Siobhian Brown MSP, Jim Fairlie MSP, John Mason MSP and Alex Rowley MSP), Against 2 (Murdo Fraser MSP and Brian Whittle MSP), Abstentions 0).**

# The Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2022 [draft]

12. [The Coronavirus \(Scotland\) Acts \(Amendment of Expiry Dates\) Regulations 2022 \[draft\]](#) were laid on 23 February 2022. The instrument is made in exercise of the powers conferred by section 12(3) of the Coronavirus (Scotland) Act 20201 (“the First Scottish Act”) and section 9(3) of the Coronavirus (Scotland) (No.2) Act 20202 (“the Second Scottish Act”). The instrument is subject to the affirmative procedure.

13. The [policy note](#) states that—

” Part 1 of the each of the Acts can only be extended in their entirety and not on a provision by provision basis. This is done through regulations made following the agreement of the Parliament, and anything that should not be extended is therefore required to be expired through separate regulations.

The Scottish Government has taken the decision that, subject to the agreement of Parliament, Part 1 of each of the Acts should be extended to the end of 30 September 2022 and has laid these Regulations to amend the expiry dates accordingly. However, extension under these Regulations will not apply to all provisions currently in the Acts as some provisions have already been expired<sup>5</sup>, while a separate instrument has been made and laid to expire early certain further provisions on 30 March 2022 – the Coronavirus (Scotland) Acts (Early Expiry of Provisions) Regulations 2022.

As required by section 12(6) of the First Scottish Act and section 9(6) of the Second Scottish Act, a separate [Statement of Reasons](#) has been prepared by the Scottish Government and laid with these Regulations, to set out reasons for making these Regulations.

The reporting requirement under section 15 of the First Scottish Act and section 12 of the Second Scottish Act will continue to require reporting whilst provisions in Part 1 of each of the Acts are in force. It is also important to note that, throughout the proposed six month extension period, if provisions are deemed to be no longer necessary during that time, they can be suspended or expired early. A suspended provision could subsequently be revived if this was considered necessary. Therefore, proposing that Part 1 of each of the Acts be extended at this time does not mean that all provisions covered by the extension must remain in place until the end of 30 September 2022. As it has done throughout the life of the Acts so far, the Scottish Government will keep the continued necessity of these provisions under review.

14. The Delegated Powers and Law Reform (DPLR) Committee considered the instrument at its meeting on [1 March 2022](#) and had no points to raise
15. At the COVID-19 Recovery Committee's meeting on 17 March 2022, the Deputy First Minister and Cabinet Secretary for COVID Recovery, John Swinney, moved the following motion in his name—

[S6M-03349](#)—That the COVID-19 Recovery Committee recommends that the Coronavirus (Scotland) Acts (Amendment of Expiry Dates) Regulations 2022 [draft] be approved.

16. **The COVID-19 Recovery Committee agreed Motion S6M-03349 (by division: For 4 (Siobhian Brown MSP, Jim Fairlie MSP, John Mason MSP and Alex Rowley MSP), Against 2 (Murdo Fraser MSP and Brian Whittle MSP), Abstentions 0).**

# The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 3) Regulations 2022 (SSI 2022/53)

17. [The Health Protection \(Coronavirus\) \(International Travel and Operator Liability\) \(Scotland\) Amendment \(No. 3\) Regulations 2022 \(SSI 2022/53\)](#) were laid on 10 February 2022. The instrument was made in exercise of the power conferred by sections 94(1)(b)(i) and 122(2) of the Public Health etc. (Scotland) Act 2008 ('the Act'). The instrument is subject to made affirmative procedure by virtue of section 122(6) of the Act.

18. The [policy note](#) states that—

” This instrument amends the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021.

It removes provisions which were introduced for persons attending or facilitating the international climate summit known as “COP26” and the COP26 World Leaders Summit.

It expands and amends the lists of “relevant countries” and “approved third countries or territories” for the purposes of the eligible vaccinated arrival policy.

It updates the categories of arrivals who benefit from sectoral exemption status. It removes schedule 6 (specified competitions) in line with the removal of the exemptions for elite sportspersons. It removes all testing requirements for eligible vaccinated arrivals and removes the requirement for arrivals that are not eligible vaccinated to take a day 8 test and self isolate.

It amends the passenger information requirements so that operators need only provide information pre-departure and on-board the relevant service. It also updates the information which must be provided. Minor amendments are made to the operator liability offences. Minor changes are also made to the information to be provided by passengers on their Passenger Locator Form (“PLF”).

19. The DPLR Committee considered the instrument at its meeting on [22 February 2022](#) and had no points to raise.

20. At the COVID-19 Recovery Committee's meeting on 17 March 2022, the Deputy First Minister and Cabinet Secretary for COVID Recovery, John Swinney, moved the following motion in his name—

[S6M-03202](#)—That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 3) Regulations 2022 (SSI 2022/53) be approved.

21. **The COVID-19 Recovery Committee agreed S6M-03202.**

# The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 5) Regulations 2022 (SSI 2022/74)

22. The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 5) Regulations 2022 (SSI 2022/74) were laid on 24 February 2022. The instrument was made in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020 ('the Act'). The instrument is subject to made affirmative procedure by virtue of paragraphs 6(2) and (3) of schedule 19 of the Act.

23. The [policy note](#) states that—

” These Regulations remove from the Principal Regulations the provisions in relation to the COVID-19 vaccine certification scheme. These Regulations remove the requirement for certain premises to operate a system for checking that persons on, or seeking to enter, their premises are fully vaccinated against coronavirus, have received appropriate test results, or are otherwise exempt from that requirement. These Regulations also remove the requirement for certain premises to prepare a compliance plan to describe how their systems will operate and describe the other measures that they have in place to prevent or minimise the spread of coronavirus. They also remove supplemental provisions in relation to licensing for certain premises.

Removing the Covid-19 Vaccination Certification Scheme is part of our ongoing review of the baseline measures as we move into the next phase of pandemic response.

24. The DPLR Committee considered the instrument at its meeting on [1 March 2022](#) and had no points to raise.

25. At the COVID-19 Recovery Committee's meeting on 17 March 2022, the Deputy First Minister and Cabinet Secretary for COVID Recovery, John Swinney, moved the following motion in his name—

[S6M-03354](#)—That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 5) Regulations 2022 (SSI 2022/74) be approved.

26. **The COVID-19 Recovery Committee agreed S6M-03354.**

