

Coronavirus (Rights and Support) Bill

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SCHEDULE 1 — Amendments to Part 2A of the Public Health (Control of Disease) Act 1984

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A

BILL

TO

Make provision in connection with coronavirus; and for connected purposes.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

MAIN PROVISIONS

CHAPTER 1

PUBLIC HEALTH POWERS

Restrictions on public health protection powers

1 Restrictions on public health protection powers: England and Wales

(1) Schedule 1 contains temporary modification of Part 2A of the Public Health (Control of Disease) Act 1984 (public health protection) .

(2) The temporary modifications in Schedule 1 have effect only in relation to the duration of the coronavirus response.

2 Restrictions on health protection powers: Scotland

(1) Schedule 2 contains temporary modification of Schedule 19 to the Coronavirus Act 2020 (health protection regulations: Scotland).

(2) The temporary modifications in Schedule 2 have effect only in relation to the duration of the coronavirus response.

3 Restrictions on public health protection powers: Northern Ireland

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(1) Schedule 3 contains temporary modification of Part 1A of the Public Health Act (Northern Ireland) 1967 (public health protection).

(2) The temporary modifications in Schedule 3 have effect only in relation to the duration of the coronavirus response.

4 Suspension of port operations impact assessment

(1) Schedule 20 to the Coronavirus Act 2020 (power to suspend port operations) is amended as follows.

(2) After paragraph 1 insert—

“Suspension of port operations impact assessment

1A

(1) The Secretary of State must, before giving a direction under paragraph 1, publish an impact assessment on the suspension of the relevant port operations (‘suspension of port operations impact assessment’).

(2) An assessment under this paragraph must have regard to—

(a) a person’s right to respect for private and family life under Article 8 of the European Convention on Human Rights;

(b) the United Kingdom’s obligations under the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 and its Protocol;

(c) the effects a direction under paragraph 1 may have on the provision of aid of a humanitarian nature.”

Right to appeal

5 Right to appeal a fixed penalty notice: England

(1) The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 (SI 2020/1374) is amended as follows.

(2) In regulation 11 (fixed penalty notices) in paragraph (5)—

(a) in subparagraph (e), for “.” substitute “;”;

(b) after subparagraph (e) insert—

“(f) provide information about how to appeal against the notice.”

(3) After regulation 11 insert—

“11A Appeals

(1) A person to whom a fixed penalty notice (‘a notice’) is issued may appeal to a magistrates' court against the notice.

(2) An appeal must be made—

(a) by way of complaint for an order, and in accordance with the Magistrates' Courts Act 1980, and

(b) within 7 days after the day the notice is issued.

(3) But a magistrates' court may allow an appeal to be made after the expiry of the period mentioned in subparagraph (2)(b) if satisfied that there is a good reason for the failure to appeal before the expiry of that period (and for any delay in applying for permission to appeal out of time).

(4) A magistrates' court may suspend the effect of a notice pending the determination of an appeal.

(5) On an appeal against a notice, a magistrates' court may—

(a) confirm the decision to issue the notice;

(b) direct that the notice is to cease to have effect;

(c) modify the notice;

(d) make such other order as the court considers appropriate.

(6) An appeal by an individual issued with a notice against the decision of a magistrates' court on an appeal under this section may be brought to the Crown Court.

(7) On an appeal to the Crown Court, the Court may—

(a) confirm, vary or reverse the decision of the magistrates court;

(b) remit the case to the magistrates' court to dispose of in accordance with directions given by the Crown Court.”

6 Right to appeal a fixed penalty notice: Wales

(1) The Health Protection (Coronavirus Restrictions) (No.5) (Wales) Regulations 2020 (W 1609) are amended as follows.

(2) After regulation 54 insert—

“54A Appeals

(1) A person to whom a fixed penalty notice (‘a notice’) is issued may appeal to a magistrates' court against the notice.

(2) An appeal must be made—

(a) by way of complaint for an order, and in accordance with the Magistrates' Courts Act 1980, and

(b) within 7 days after the day the notice is issued.

(3) But a magistrates' court may allow an appeal to be made after the expiry of the period mentioned in subparagraph (2)(b) if satisfied that there is a good reason for the failure to appeal before the expiry of that period (and for any delay in applying for permission to appeal out of time).

(4) A magistrates' court may suspend the effect of a notice pending the determination of an appeal.

(5) On an appeal against a notice, a magistrates' court may—

(a) confirm the decision to issue the notice;

(b) direct that the notice is to cease to have effect;

(c) modify the notice;

(d) make such other order as the court considers appropriate.

(6) If the magistrates' court directs that a notice is to cease to have effect or modifies a notice, it may order the local authority for the area in which the premises in question are situated to pay compensation for loss suffered as the result of the issue of the notice.

(7) An appeal by either party against the decision of a magistrates' court on an appeal under this section may be brought to the Crown Court.

(8) On an appeal to the Crown Court, the Court may—

(a) confirm, vary or reverse the decision of the magistrates court;

(b) remit the case to the magistrates' court to dispose of in accordance with directions given by the Crown Court.”

7 Right to appeal a fixed penalty notice: Scotland

(1) The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (SSI 2020/344) is amended as follows.

(2) After regulation 7 insert—

“7A Appeals

- (1) A person to whom a fixed penalty notice (‘a notice’) is issued may appeal to a justice of the peace against the notice.
- (2) An appeal must be made within 7 days after the day the notice is issued.
- (3) But a justice of the peace may allow an appeal to be made after the expiry of the period mentioned in paragraph (2) if satisfied that there is a good reason for the failure to appeal before the expiry of that period (and for any delay in applying for permission to appeal out of time).
- (4) A justice of the peace may suspend the effect of a notice pending the determination of an appeal.
- (5) On an appeal against a notice, a justice of the peace may—
 - (a) confirm the decision to issue the notice;
 - (b) direct that the notice is to cease to have effect;
 - (c) modify the notice;
 - (d) make such other order as the court considers appropriate.
- (6) If the justice of the peace directs that a notice is to cease to have effect or modifies a notice, it may order the local authority for the area in which the premises in question are situated to pay compensation for loss suffered as the result of the issue of the notice.
- (7) An appeal by either party against the decision of a justice of the peace on an appeal under this section may be brought to the Sheriff Appeal Court.
- (8) On an appeal to the Sheriff Appeal Court, the Court may—
 - (a) confirm, vary or reverse the decision of the magistrates court;
 - (b) remit the case to the magistrates' court to dispose of in accordance with directions given by the Sheriff Appeal Court.”

8 Right to appeal a fixed penalty notice: Northern Ireland

- (1) The Health Protection (Coronavirus, Restrictions) (No.2) Regulations (Northern Ireland) 2020 (SR 2020/150) are amended as follows.
- (2) After regulation 10 insert—

“10A Appeal of fixed penalty notice

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(1) A person to whom a fixed penalty notice (in this regulation a “notice”) is issued under Regulation 9 may appeal to a court of summary jurisdiction against the notice.

(2) An appeal must be made—

(a) to a court of summary jurisdiction in accordance with Article 76 of the Magistrates’ Courts (Northern Ireland) Order 1981, and

(b) within 7 days after the day the notice is issued.

(3) A court of summary jurisdiction may allow an appeal to be made after the expiry of the period mentioned in subparagraph (2)(b) if satisfied that there is a good reason for the failure to appeal before the expiry of that period and for any delay in applying for permission to appeal out of time.

(4) A court of summary jurisdiction may suspend the effect of a notice pending the determination of an appeal.

(5) On an appeal against a notice, a court of summary jurisdiction may—

(a) confirm the decision to issue the notice;

(b) direct that the notice is to cease to have effect;

(c) modify the notice; or

(d) make such other order as the court considers appropriate.

(6) An appeal by either party against the decision of a court of summary jurisdiction under this regulation may be made under Article 143(3)(c) of the Magistrates' Courts (Northern Ireland) Order 1981.

(7) On an appeal in accordance with paragraph (6), the county court may confirm, vary or reverse the decision of the court of summary jurisdiction.”

9 Formation of Joint Committee on Coronavirus

(1) There is to be a committee known as the Joint Committee on Coronavirus (“the Committee”) for the duration of the coronavirus response.

(2) Schedule 6 (which makes provision about the Committee) has effect.

CHAPTER 2

JUSTICE

Access to justice

10 Remote proceedings impact assessment

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(1) The appropriate Minister must publish an impact assessment ('an assessment') on the operation of proceedings conducted as—

- (a) video proceedings, and
- (b) audio proceedings.

(2) The appropriate Minister must publish a separate assessment for—

- (a) criminal proceedings,
- (b) civil proceedings, and
- (c) family proceedings,

(3) The appropriate Minister must publish an assessment for the types of proceedings outlined in subsection (2) every calendar month.

(4) An assessment published under this section must comply with subsections (5) to (7).

(5) An assessment must consider the impact of remote proceedings on—

- (a) the effectiveness of justice,
- (b) the experience of participants,
- (c) the availability of legal representation, and
- (d) in relation to criminal proceedings—
 - (i) plea outcomes;
 - (ii) conviction rates;
 - (iii) detention and sentencing rates.

(6) An assessment must assess the extent to which remote proceedings enable —

- (a) open and transparent justice;
- (b) effective participation of persons entitled to participate in remote proceedings in accordance with the Coronavirus Act 2020;
- (c) persons to participate in a manner analogous to proceedings that are not conducted remotely;
- (d) the health and safety of court users.

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(7) An assessment must identify vulnerable groups and propose reasonable adjustments to ensure those groups are able to effectively participate in remote proceedings.

(8) An assessment of the health and safety of court users under subsection (6)(d), means an assessment of the risk of transmission of coronavirus to, or between, court users.

(9) Where an assessment proposes reasonable adjustments in accordance with subsection (7), the appropriate Minister must implement those proposals as soon as reasonably practicable.

(10) An assessment under this section shall be referred to as a ‘remote proceedings impact assessment’.

(11) In this section, “appropriate Minister” means—

- (a) in relation to England and Wales, the Secretary of State;
- (b) in relation to Scotland, the Scottish Ministers;
- (c) in relation to Northern Ireland, the Department of Justice.

Criminal justice: prisons

11 Provision for prisons in England and Wales, Scotland and Northern Ireland

Schedule 4 has effect.

CHAPTER 3

IMMIGRATION

The ‘Hostile Environment’

12 Suspension of restrictions on access to services

(1) The following provisions are suspended for the duration of the coronavirus response:

- (a) Section 21 of the Immigration Act 2014 (Persons disqualified by immigration status or with limited right to rent)
- (b) Section 22 of the Immigration Act 2014 (Persons disqualified by immigration status not to be leased premises)
- (c) Section 23 of the Immigration Act 2014 (Penalty notices: landlords)
- (d) Section 25 of the Immigration Act 2014 (Penalty notices: agents)

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- (e) Section 28 of the Immigration Act 2014 (Penalty notices: general)
 - (f) Section 33 of the Immigration Act 2014 (Discrimination)
 - (g) Section 33A of the Immigration Act 2014 (Offences: landlords)
 - (h) Section 33B of the Immigration Act 2014 (Offences: agents)
 - (i) Section 33D of the Immigration Act 2014 (Termination of agreement where all occupiers disqualified)
 - (j) Section 33E of the Immigration Act 2014 (Other procedures for ending agreement)
 - (k) Section 34 of the Immigration Act 2014 (Orders)
- (2) The following provisions are suspended for the duration of the coronavirus response:
- (a) Section 10A of the Housing Act 1988 (Power to order transfer of tenancy in certain cases)
 - (b) Ground 7B of Part 1 of Schedule 2 of the Housing Act 1988 (Grounds on which Court must order possession)
- (3) Case 10A of Part 1 of Schedule 15 to the Rent Act 1977 is suspended (Cases in Which Court May Order Possession).
- (4) The following provisions are suspended for the duration of the coronavirus response:
- (a) Section 40 of the Immigration Act 2014 (Prohibition on opening current accounts for disqualified persons)
 - (b) Section 40A of the Immigration Act 2014 (Requirement to carry out immigration checks in relation to current accounts)
 - (c) Section 40B of the Immigration Act 2014 (Requirement to notify existence of current accounts for disqualified persons)
 - (d) Section 40C of the Immigration Act 2014 (Action to be taken by Secretary of State following section 40B notification)
 - (e) Section 40D of the Immigration Act 2014 (Freezing orders)
 - (f) Section 40E of the Immigration Act 2014 (Freezing orders: appeals)

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- (g) Section 40G of the Immigration Act 2014 (Closure of accounts not subject to freezing order)
- (5) The Immigration Act 2014 (Current Accounts) (Excluded Accounts and Notification Requirements) Regulations 2016 (SI 2016/1252) are suspended for the duration of the coronavirus response.
- (6) The following provisions are suspended for the duration of the coronavirus response:
 - (a) Section 97A of the Road Traffic Act 1988 (Residence requirement)
 - (b) Section 99(3ZA) and (3ZB) of the Road Traffic Act 1988 (Duration of licences)
- (7) The following provisions are suspended for the duration of the Coronavirus Response:
 - (a) Article 13A of the Road Traffic (Northern Ireland) Order 1981 (Residence requirement)
 - (b) Articles 15(5ZA) and (5ZB) of the Road Traffic (Northern Ireland) Order 1981 (Duration of licences).

13 Suspension of immigration offences

- (1) The following provisions are suspended for the duration of the coronavirus response:
 - (a) Section 24(1)(a) of the Immigration Act 1971 (Illegal entry and similar offences);
 - (b) Section 24(1)(c) of the Immigration Act 1971 (Illegal entry and similar offences);
 - (c) Section 24(1)(h) of the Immigration Act 1971 (Illegal entry and similar offences) is suspended for the duration of the coronavirus response;
 - (d) Section 24B of the Immigration Act 1971 (Illegal working);
 - (e) Section 24C of the Immigration Act 1971 (Driving when unlawfully in the United Kingdom);
 - (f) Section 21 of the Immigration, Asylum and Nationality Act 2006 (Offence); and
 - (g) Section 108 of the Immigration and Asylum Act 1999 (Failure of sponsor to maintain).

14 Suspension of powers related to restrictions on access to services and immigration offences

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- (1) The following provisions are suspended for the duration of the coronavirus response:
 - (a) Paragraph 25CA of Schedule 2 to the Immigration Act 1971 (Entry of premises to search for driving licence)
 - (b) Paragraph 25CB of Schedule 2 to the Immigration Act 1971 (Searching persons for driving licences)
 - (c) Paragraph 25CC of Schedule 2 to the Immigration Act 1971 (Seizure and retention of driving licence)
- (2) The following provisions are suspended for the duration of the coronavirus response:
 - (a) Section 24D of the Immigration Act 1971 (Detention of motor vehicles)
 - (b) Section 24E of the Immigration Act 1971 (Powers to enter premises to detain motor vehicle)
 - (c) Section 24F of the Immigration Act 1971 (Orders following conviction of offence under section 24C)

15 Suspension of restrictions on working

- (1) Section 192A of the Licencing Act 2003 (Entitlement to work in the United Kingdom) is suspended for the duration of the coronavirus response.
- (2) Section 38 of the Immigration Act 2016 (Illegal working closure notices and illegal working compliance orders) is suspended for the duration of the coronavirus response.

16 Suspension of the Immigration Health Charge

Article 3 of the Immigration (Health Charge) Order 2015 is suspended for the duration of the coronavirus response.

17 Suspension of NHS charges

- (1) Regulation 3 of the National Health Service (Charges to Overseas Visitors) Regulations 2015 (S.I. 2015/238) is suspended for the duration of the coronavirus response.
- (2) Regulation 3A of the National Health Service (Charges to Overseas Visitors) Regulations 2015 (S.I. 2015/238) is suspended for the duration of the coronavirus response.

18 Suspension of the ‘No Recourse to Public Funds’ policy

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(1) Section 115 of the Immigration and Asylum Act 1999 (Exclusion from benefits) is suspended for the duration of the coronavirus response.

(2) Section 3(1)(c)(ii) of the Immigration Act 1971 (General provisions for regulation and control) is suspended for the duration of the coronavirus response.

Deportation and detention

19 Suspension of removals and deportations

(1) Section 10 of the Immigration and Asylum Act 1999 (Removal of persons unlawfully in the United Kingdom) is suspended for the duration of the coronavirus response.

(2) The Immigration (Removal Directions) Regulations 2000 (SI 2000/2243) are suspended for the duration of the coronavirus response.

(3) The Immigration (Removal of Family Members) Regulations 2014 (SI 2014/2816) are suspended for the duration of the coronavirus response.

(4) Paragraph 8 of Schedule 2 to the Immigration Act 1971 (Removal of persons refused leave to enter and illegal entrants) is suspended for the duration of the coronavirus response.

(5) The following provisions are suspended for the duration of the coronavirus response:

(a) Sections 5 and 6 of Schedule 3 of the Immigration Act 1971 (Powers of courts pending deportation) and

(b) Paragraph 1 of Schedule 3 of the Immigration Act 1971 (Removal of persons liable to deportation).

20 Suspension of immigration detention

(1) Paragraphs 16 and 18 of Schedule 2 to the Immigration Act 1971 (Detention of persons liable to examination or removal) are suspended for the duration of the coronavirus response.

(2) Section 62 of the Nationality, Immigration and Asylum Act 2002 (Detention by Secretary of State) is suspended for the duration of the coronavirus response.

(3) Paragraph 2 of Schedule 3 to the Immigration Act 1971 (Detention or control pending deportation) is suspended for the duration of the coronavirus response.

(4) The Secretary of State for the Home Department must, by within 28 days of this section coming into effect, implement the release of all persons detained under immigration powers in:

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- (a) immigration removal centres;
- (b) short-term holding facilities;
- (c) prisons;
- (d) any other place in which persons are detained under immigration powers upon the direction of the Secretary of State for the Home Department.

Asylum accommodation and financial support

21 Provision of accommodation and financial support

(1) Section 4 of the Immigration and Asylum Act 1999 is suspended for the duration of the coronavirus response.

(2) This section contains temporary modifications of section 95 and section 98 of the Immigration and Asylum Act 1999.

(3) These temporary modifications have effect for the duration of the coronavirus response.

(4) In section 95 of the Immigration and Asylum Act 1999 for subsection (1) substitute –

“(1) The Secretary of State must provide, or arrange for the provision of, accommodation and financial support for –

- (a) asylum-seekers,
- (b) dependants of asylum-seekers,
- (c) failed asylum-seekers,
- (d) dependants of failed asylum seekers, and
- (e) persons released from immigration detention on immigration bail or otherwise

who appear to the Secretary of State to be destitute or to be likely to become destitute within such period as may be prescribed.”

(5) In section 95 of the Immigration and Asylum Act 1999, below subsection (1) insert –

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“(1A) A person who is provided with accommodation and financial support under this section as an asylum seeker or a dependant of an asylum seeker, and is subsequently granted refugee status, humanitarian protection or discretionary leave to remain, shall continue to be provided with accommodation and/or financial support under this section for a minimum of 56 days following the date on which the person receives notification of the grant.

(1B) The following requirements must be met in respect of accommodation provided under subsection (1) –

- (a) it is compliant with housing conditions under Part 1 of the Housing Act 2004 and conforms to the housing health and safety rating system;
- (b) it is of sufficient size to enable recipients to socially distance from other residents in the accommodation;
- (c) recipients of accommodation must not be expected to share a bathroom or kitchen with more than three other residents (excluding persons who are family members);
- (d) any recipient who suffers from a medical condition which places him at increased risk from coronavirus, shall not be housed in accommodation with persons other than family members.
- (e) it is located in a place where the person feels safe and secure.

(1C) A person is “higher risk” from coronavirus where he suffers from a medical condition recognised by the National Health Service or a registered doctor as placing him at increased risk from coronavirus.”

(6) In section 95 of the Immigration and Asylum Act 1999, below subsection (5) insert –

“(5A) In determining, for the purposes of this section, whether a person’s accommodation is adequate, the Secretary of State must have regard to whether the requirements in subsection (1A) are met.

(5B) Where the requirements of subsection (1A) are not met, that accommodation shall not be considered adequate.”

(7) In section 95 of the Immigration and Asylum Act 1999, below subsection (11) insert –

“(11A) Support may not be terminated during the coronavirus pandemic on account of a breach of conditions imposed under subsection (9).

(11B) All in-person reporting requirements imposed as a condition of the provision of support under subsection (1) must, during the coronavirus pandemic, be –

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- (a) cancelled, or
- (b) replaced by reporting requirements –
 - (i) which do not require an individual to attend a face-to-face meeting, and
 - (ii) do not result in the individual in respect of whom such requirements are imposed to incur additional costs.”

(8) Paragraph 9(1), (2) (3) and (5) of Schedule 10 to the Immigration Act 2016 (Powers of Secretary of State to enable person to meet bail conditions) is suspended for the duration of the coronavirus response.

(9) Paragraph 9(4) of Schedule 10 to the Immigration Act 2016 is substituted by –

“(4) The Secretary of State must make a payment to a person in immigration bail in respect of travelling expenses which the person has incurred or will incur for the purpose of complying with a bail condition.”

(10) In section 98 of the Immigration and Asylum Act 1999, substitute subsection (1) with –

“(1) The Secretary of State must provide, or arrange for the provision of, accommodation and financial support for –

- (a) asylum-seekers,
- (b) dependants of asylum-seekers,
- (c) failed asylum-seekers,
- (d) dependants of failed asylum seekers,
- (e) persons released from immigration detention on immigration bail or otherwise

who it appears to the Secretary of State may be destitute.”

(7) In section 98 of the Immigration and Asylum Act 1999, substitute subsection (3) with –
“(3) Subsections (1B) to (11B) of section 95 apply for the purposes of this section as they apply for the purposes of that section.”

Data-sharing firewall

22 Restoration of privacy rights

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(1) Paragraph 4 of Schedule 2 to the Data Protection Act 2018 (Immigration) is suspended for the duration of the coronavirus response.

(2) The Secretary of State must make regulations providing for a prohibition on the sharing of personal data belonging to person subject to immigration control, between public authorities and immigration enforcement.

(3) In subsection (2)–

“personal data” has the same meaning as in section 3(2) of the Data Protection Act 2018;

“person subject to immigration control” has the meaning given by section 115(9) of the Immigration and Asylum Act 1999;

“public authority” in has the meaning given by section 3(1) of the Freedom of Information Act 2000.

(4) Regulations made under subsection (2) must be laid before Parliament within 14 days of this section coming into force.

Continuation of leave to remain

23 Automatic continuation of leave during the coronavirus pandemic

In the Immigration Act 1971, after Section 3C insert –

“Section 3CA Continuation of leave during the coronavirus pandemic

(1) This section applies to a person “P” with limited leave to enter or remain in the United Kingdom, if –

(i) P’s limited leave to enter or remain expires during the coronavirus pandemic, and

(ii) P has not made an application prior to expiry for variation of the leave.

(2) P’s leave is automatically extended by virtue of this section, for the same period for which it was originally granted.

(3) Where P’s leave is automatically extended by virtue of this section, P does not have to –

(a) pay a fee, or

(b) make an application.

(3) Nothing in this section prevents P's leave from being automatically renewed on successive occasions during the coronavirus pandemic.

(4) Leave extended by virtue of this section shall not lapse if P leaves the United Kingdom.

(5) P may make an application to vary his leave to enter or remain or apply for indefinite leave to remain in the United Kingdom whilst his leave is extended by virtue of this section.

(6) Leave extended by virtue of this section shall be deemed to be continuous leave for the purposes of any application by P for indefinite leave to remain under the Immigration Rules.

(7) P's immigration status is not "precarious" within the meaning of section 117B(5) of the Nationality, Immigration and Asylum Act 2002, if P's leave has been extended by virtue of this section."

24 Persons unable to comply with conditions of leave during the coronavirus pandemic

In section 3 of the Immigration Act 1971, after subsection (1) insert –

“(1A) A person “P” shall not be in breach of his conditions of leave to enter or remain during the coronavirus period if –

(a) he is unable to work due to –

- (i) illness;
- (ii) a medical condition which places him or a member of his household at higher risk from coronavirus;
- (iii) being required to self-isolate; or
- (iv) being placed on furlough.

(b) he is unable to attend studies due to –

- (i) illness;

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- (ii) a medical condition which places him or a member of his household at higher risk from coronavirus; or
- (iii) being required to self-isolate.

(1B) A person is “higher risk” from coronavirus where he suffers from a medical condition recognised by the National Health Service or a registered doctor as placing him at increased risk from coronavirus.”

CHAPTER 4

DATA PROTECTION

The Information Commissioner

25 Duty to advise Parliament

(1) The Information Commissioner has a duty to advise Parliament, the government and other institutions and bodies on legislative and administrative measures relating to the protection of individuals’ rights and freedoms with regard to the processing of personal data in connection with the response to coronavirus.

26 Duty to monitor processing of contact tracing data

(1) The Information Commissioner is responsible for monitoring the activities in subsection (2).

(2) The activities mentioned are—

- (a) the processing of personal data by a public authority or a relevant person for the purposes of contact tracing, and connected purposes, as part of the coronavirus response;
- (b) the operation of any privacy protections put in place by a public authority or a relevant person in relation to their processing of personal data for the purposes of contact tracing, and connected purposes, as part of the coronavirus response;

(3) When monitoring the operation of privacy protections under this section, the Information Commissioner must have regard to the effectiveness of the privacy protections applied.

(4) In this section, “privacy protections” means the technical and organisational measures put in place to ensure the privacy of the data subject is protected.

(5) This section is without prejudice to any other functions conferred on the Information Commissioner by the data protection legislation.

27 Duty to publish assessments relating to processing of contact tracing data

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(1) The Information Commissioner must publish an assessment relating to the processing of contact tracing data in so far as it relates to the Commissioner’s powers under section 23 (“an assessment”).

(2) An assessment must, in particular, include a description of any breaches of data law committed by a public authority or a relevant person that relate to the processing of contact tracing data.

(3) The description of a breach of data law mentioned in subsection (2) must include the following—

- (a) a description of the nature of the breach,
- (b) a description of the likely consequences of the breach, and
- (c) a description of the measures taken or proposed to be taken by the public authority to address the breach, including, where appropriate, measures to mitigate its possible adverse effects.

(4) Where and to the extent that it is not possible to provide all the information mentioned in subsection (3) at the same time, the information may be provided in phases without undue further delay.

(5) An assessment must be published on the last working day of every calendar month that this Act is in force.

(6) This section is without prejudice to other functions conferred on the Information Commissioner by the data protection legislation.

Contact-tracing

28 Decentralisation of contact tracing and associated data

(1) The appropriate national authority must by regulations make provision for the decentralisation of contact tracing and associated data.

(2) In this section, “decentralisation of contact tracing and associated data” means the transfer of the provision of contact tracing, and connected services, in response to the coronavirus, to local authorities.

(3) In this section,

“local authorities” means—

(a) in relation to England, the same as in regulation 4 of the Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020 (SI 2020/1005);

(b) in relation to Scotland, a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;

(c) in relation to Wales, a county council in Wales or a county borough council;

(d) in relation to Northern Ireland, a district council.

29 National Health Service Covid-19 App

(1) In this section, a reference to the “NHS Covid-19 App” is a reference to the mobile contact tracing application developed by the Department of Health and Social Care in response to coronavirus.

(2) The Secretary of State must, by the end of the period of 28 days beginning with the day on which this section comes into force, publish guidelines for the processing of personal data in connection with the NHS Covid-19 App which must include:

(a) the purposes for which personal data may be processed in connection with the NHS Covid-19 App;

(b) the maximum period for which personal data collected by means of the NHS Covid-19 App may be retained; and

(c) the minimum technical and organisational measures to ensure the security of the personal data collected by means of the NHS Covid-19 App.

(3) The Secretary of State must, by the end of the period of 21 days beginning with the day on which this section comes into force, and by the end of every period of 21 days thereafter, conduct a review of the NHS Covid-19 App, which review must address:

(a) the efficacy of the NHS Covid-19 App;

(b) the sufficiency of the technical and organisational measures to ensure the security of the personal data collected by means of the NHS Covid-19 App; and

(c) the impact of the NHS Covid-19 App upon the privacy and data protection rights of persons whose personal data is processed by means of the NHS Covid-19 App.

(4) The Secretary of State must report the outcome of the reviews conducted in accordance with subsection (3) to Parliament.

(5) A person (A) must not treat another person (B) less favourably than A treats or would treat others, by reason of a failure by B to use the NHS Covid-19 App.

(6) A person (A) must not threaten to treat another person (B) less favourably than A treats or would treat others, by reason of a failure by B to use the NHS Covid-19 App.

(7) For the purposes of subsections 1 and 2, a person includes a public authority.

(8) Proceedings relating to a contravention of subsection 5 and 6 must be brought in accordance with this section.

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- (a) Subsection (5) does not prevent a claim for judicial review.
- (b) Subject to subsection (a), the county court or, in Scotland, the sheriff has jurisdiction to determine a claim relating to a contravention of section 5 and 6.
- (c) Proceedings for a contravention of section 5 and 6 may not be brought after the end of—
 - (i) the period of 6 months starting with the date of the act to which the claim relates, or
 - 30 (ii) such other period as the court thinks just and equitable.
- (d) Subsection (e) applies if the county court finds that there has been a contravention of Regulation 4.
- (e) The county court has the power to grant any remedy which could be granted by the High Court—
 - (i) in proceedings in tort;
 - (ii) on a claim for judicial review.
- (f) Subsection (g) applies if the sheriff finds that there has been a contravention of Regulation 4.
- (g) The sheriff has power to make any order which could be made by the Court of Session—
 - (i) in proceedings for reparation;
 - (ii) on a petition for judicial review.
- (h) An award of damages may include compensation for injured feelings (whether or not it includes compensation on any other basis).

30 National Health Service Test and Trace System

- (1) In this section, a reference to “NHS Test and Trace” is a reference to the program established by the Department of Health and Social Care to identify recent contacts of an individual who has tested positive for coronavirus.
- (2) The appropriate national authority must publish—
 - (a) a data protection impact assessment, and
 - (b) an equality impact assessment.
- (3) The assessments in subsection (2) must be published prior to any change in the methods used in connection with the NHS Test and Trace system.

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(4) Subject to subsection (5), the appropriate national authority must publish up-to-date assessments of the systems used in connection with the processing of personal data for the purposes of the NHS Test and Trace System, and connected purposes, as part of the public health response to coronavirus every 28 days.

(5) The Secretary of State must publish, by the end of the period of 14 days beginning with the day on which the agreement was concluded, any agreement between a public authority and a person (“the recipient”) by which the recipient is provided with access to data held in the NHS Test and Trace System.

(6) “Data protection impact assessment” has the same meaning as in section 64 of the Data Protection Act 2018.

(7) “Equality impact assessment” means [an assessment of the impact of an envisaged change to processing systems on the equality of data subjects].

(8) Personal data collected by or in connection with NHS Test and Trace shall not, for any reason, be provided to—

(a) a police force; or

(b) a person or agency exercising a function in relation to immigration control.

(9) The Secretary of State shall, must, by the end of the period of 28 days beginning with the day on which this Act comes into force, publish guidelines for the processing of personal data in connection with NHS Test and Trace, which must include guidelines to ensure compliance by the Department of Health and Social Care with subsection (8).

31 National Health Service Covid-19 Data Store

(1) In this section a reference to “NHS Covid-19 Data Store” is a reference to the collection of coronavirus patient data established by the Department of Health and Social Care.

(2) The appropriate national authority must publish—

(a) a data protection impact assessment, and

(b) an equality impact assessment.

(3) The assessments in subsection (2) must be published prior to any change to the methods used in connection with the NHS Covid-19 Data Store.

(4) Subject to section (5), the appropriate national authority must publish up-to-date assessments of the systems used in connection with the processing of personal data for the purposes of the NHS Covid-19 Data Store, and connected purposes, as part of the public health response to coronavirus every 28 days.

(5) The Secretary of State must publish, by the end of the period of 14 days beginning with the day on which the agreement was concluded, any agreement between a public authority

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and a person (“the recipient”) by which the recipient is provided with access to data held in the NHS Covid-19 Data Store.

(6) Personal data collected by or in connection with the NHS Covid-19 Data Store shall not, for any reason, be provided to—

(a) a police force; or

(b) a person or agency exercising a function in relation to immigration control.

(7) The Secretary of State shall, must, by the end of the period of 28 days beginning with the day on which this Act comes into force, publish guidelines for the processing of personal data in connection with the NHS Covid-19 Data Store, which must include guidelines to ensure compliance by the Department of Health and Social Care with subsection (6).

(8) No public authority shall enter into any agreement with a person, other than a public authority (“the recipient”), by which the recipient is granted access to data held in the NHS Covid-19 Data Store, unless the terms of that agreement expressly prohibit the recipient from deriving any financial or commercial benefit from access to that data.

(9) The Secretary of State must publish, by the end of the period of 14 days beginning with the day on which the agreement was concluded, any agreement between a public authority and a person (“the recipient”) by which the recipient is provided with access to data held in the NHS Covid-19 Data Store.

Coronavirus data protection duty

32 Coronavirus data protection duty

(1) A public authority must, in the exercise of its functions in relation to the collection, handling, retention, storage, or use of data (including personal data) in connection with the response to coronavirus, have due regard to the need to protect the privacy of any data subject.

(2) A person who is not a public authority but who exercises public functions in relation to the collection, handling, retention, storage, or use of data (including personal data) in connection with the response to coronavirus must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

(3) Without limiting the scope of the duty imposed by subsection (1), a public authority or person to whom that paragraph applies must, at least, have regard to—

(a) whether the purpose to be achieved by the collection, handling, retention, storage, or use of data could reasonably be achieved by any other means;

(b) whether, having regard to the sensitivity of the information contained within the data, the public authority (or person exercising a public function) has implemented appropriate technical and organisational measures to ensure the security of the data; and

(c) the public interest in the protection of privacy.

(4) In this section —

“public authority” has the meaning given in section 150 of the Equality Act 2020.

a “public function” is a function that is a function of a public nature for the purposes of the Human Rights Act 1998.

Data processing: protections

33 Impact assessment requirements

(1) The appropriate national authority must publish—

(a) a data protection impact assessment, and

(b) an equality impact assessment.

(2) The assessments mentioned in subsection (1) must be published prior to a change in the systems used in connection with the processing of personal data for the purposes of contact tracing, and connected purposes, as part of the public health response to coronavirus (“change to processing systems”).

(3) Subject to subsection (2), the appropriate national authority must publish assessments of the systems used in connection with the processing of personal data for the purposes of contact tracing, and connected purposes, as part of the public health response to coronavirus every 28 days beginning on the day this section comes into force.

(4) “Data protection impact assessment” has the same meaning as in section 64 of the Data Protection Act 2018.

(5) “Equality impact assessment” means an assessment of the impact of an envisaged change to processing systems on the equality of data subjects.

34 Restrictions on the processing of data

(1) This section applies to personal data that has been processed for the purposes of contact tracing, and connected purposes, as part of the coronavirus response.

(2) A controller must erase the personal data of a data subject within the period of three months from the date on which the data was collected.

(3) Personal data must not be processed in a manner which would result in the use of the data subject’s biometric data on documents for the purposes of identification, registration or other purposes.

(4) Personal data must not be disclosed by transmission, dissemination or otherwise to third parties.

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(5) In this section—

“controller” means—

- (a) public authorities and public bodies,
- (b) private companies, and
- (c) any other person required or entitled to retain personal data for the purposes described in this section.

“third parties” means—

- (a) law enforcement agencies,
- (b) immigration enforcement agencies, and
- (c) companies, partnerships, charities, corporations, unincorporated associations, sole traders or other organisations with legal personality,

but does not include a public authority or public body to whom disclosure is or may be made for the purposes of contact tracing in accordance with the law.

Interpretation of this Chapter

35 Interpretation of this Chapter

In this Chapter—

“data subject” has the same meaning as in the Data Protection Act 2018 (see section 3);

“personal data” has the same meaning as in the Data Protection Act 2018 (see section 3);

“processing” has the same meaning as in the Data Protection Act 2018 (see section 3);

“public authority” and “public body” has the same meaning as in the Data Protection Act 2018 (see section 7);

“relevant person” means—

May

(a) a company, partnership, charity, corporation, unincorporated association, sole trader or other organisation having legal personality;

(b) a person, other than one falling within paragraph (a), who has overall responsibility for the collection and sharing of information under—

- (i) the Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020 (SI 2020/1005);

(ii) the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations (SI 2020/344);

(iii) the Health Protection (Coronavirus Restrictions) (No.5) (Wales) Regulations (SI 2020/1609);

(iv) the Health Protection (Coronavirus, Restrictions) (No.2) Regulations (Northern Ireland) (SI 2020/150).

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3).

CHAPTER 5

SOCIAL WELFARE

Social welfare: England, Scotland and Wales

36 Duty to secure an adequate standard of living: England, Scotland and Wales

(1) Throughout the period specified in subsection (4) (‘the specified period’), the Secretary of State must take steps to secure the necessary conditions (‘the conditions’) required for an individual to safely self-isolate where—

(a) that individual has tested positive for coronavirus, or

(b) that individual has had close contact with another person who has tested positive for coronavirus.

(2) The Secretary of State must by way of regulations secure every person’s right to an adequate standard of living.

(3) The Secretary of State may meet their duties under subsections 1 and 2 by awarding a benefit under, in particular, the—

(a) Welfare Reform Act 2012;

(b) Welfare Reform Act 2007;

(c) Jobseekers Act 1995;

(d) Social Security Contributions and Benefits Act 1992.

(4) A benefit may be awarded under an enactment not mentioned in subsection (2) where the Secretary of State considers it to be necessary and appropriate.

(5) In this section—

‘The specified period’ means the duration of the coronavirus response.

‘Adequate standard of living’ has the same meaning as Article 11 of the International Covenant on Economic, Social and Cultural Rights.

37 Claims: England, Scotland and Wales

(1) A benefit under section 29(2) may be awarded to—

- (a) an individual who is not a member of a couple (a “single person”), or
- (b) members of a couple jointly.

(2) Regulations made by the Secretary of State may specify circumstances in which a member of a couple may make a claim as a single person.

Social welfare: Northern Ireland

38 Duty to secure an adequate standard of living: Northern Ireland

(1) Throughout the period specified in subsection (4) (‘the specified period’), the Department for Communities (‘the Department’) must take steps to secure the necessary conditions (‘the conditions’) required for an individual to safely self-isolate where—

- (a) that individual has tested positive for coronavirus, or
- (b) that individual has had close contact with another person who has tested positive for coronavirus.

(2) The Secretary of State must also make regulations to secure every person’s right to an adequate standard of living.

(3) The Department may meet their duties under subsection 1 and 2 by awarding a benefit under, in particular, the—

- (a) Welfare Reform (Northern Ireland) Order 2015;
- (b) Welfare Reform Act (Northern Ireland) 2007;
- (c) Jobseekers (Northern Ireland) Order 1995;
- (d) Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(4) A benefit may be awarded under an enactment not mentioned in subsection (2) where the Department considers it to be necessary and appropriate.

(5) In this section—

‘The specified period’ means the duration of the coronavirus response.

‘Adequate standard of living’ has the same meaning as Article 11 of the International Covenant on Economic, Social and Cultural Rights.

39 Claims: Northern Ireland

(1) A benefit under section 29(2) may be awarded to—

- (a) an individual who is not a member of a couple (a “single person”), or
- (b) members of a couple jointly.

(2) Regulations made by the Department may circumstances in which a member of a couple may make a claim as a single person.

CHAPTER 6

EDUCATION

Free School Meals

40 Provision of financial assistance during school closures

(1) The appropriate Minister must by regulations make provision for local authorities to provide financial assistance to-

- (a) the parent, or
- (b) the guardian,

of a child (‘C’).

(2) Regulations made under subsection (1) must provide that a local authority may provide financial assistance only where conditions A and B are met.

(3) Condition A is that a temporary closure direction has been made under Schedule 16 to the Coronavirus Act 2020 (temporary closure of educational institutions and childcare premises).

(4) Condition B is that at least one of the following benefits are claimed—

- (a) C’s parent or guardian is in receipt of—
 - (i) universal credit in such circumstances as may be prescribed for the purposes of this paragraph;
 - (ii) income support;
 - (iii) income-based jobseeker’s allowance (payable under the Jobseekers Act 1995);

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(iv) income-based employment and support allowance;

(v) support provided under Part 6 of the Immigration and Asylum Act 1999;

(b) C's parent or guardian is—

(i) in receipt of any benefit or allowance not failing within paragraph (a);

(ii) entitled to any tax credit under the Tax Credits Act 2002 or element of such a tax credit that is so prescribed;

(c) C is—

(i) in receipt of any benefit or allowance mentioned at paragraph (a)(i) to (a)(iv);

(ii) in receipt of any benefit or allowance not mentioned at paragraph (a)(i) to (a)(iv) excluding paragraph (a)(v);

(iii) entitled to any tax credit under the Tax Credits Act 2002 or element of such a tax credit that is so prescribed.

(5) This section applies to children entitled to free school meals under—

(a) the Education Act 1996;

(b) the Education (Scotland) Act 1980;

(c) the Education and Libraries (Northern Ireland) Order 1986.

(6) This section has effect for the duration of the coronavirus response.

(7) In this section, “financial assistance” means the provision of a grant by a local authority to a person mentioned in subsection (1)(a) or (b) in connection with the education of C; and “prescribed” means prescribed in regulations made under this section.

41 Provision of meals to children during school holidays

(1) The appropriate Minister must by regulations make provision for local authorities to provide meals to pupils at any school maintained by the authority during school holidays, provided that one or more of the conditions in subsection (2) are met.

(2) A child (“C”) may qualify for a meal under subsection (1) if—

(a) C's parent or guardian is in receipt of—

(i) universal credit in such circumstances as may be prescribed for the purposes of this paragraph,

(ii) income support,

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(iii) income-based jobseeker's allowance (payable under the Jobseekers Act 1995),

(iv) income-based employment and support allowance,

(v) support provided under Part 6 of the Immigration and Asylum Act 1999 (c.33),

(b) C's parent or guardian is—

(i) in receipt of any benefit or allowance not falling within paragraph (a), or

(ii) entitled to any tax credit under the Tax Credits Act 2002 or element of such a tax credit that is so prescribed.

(c) C is—

(i) in receipt of any benefit or allowance mentioned at paragraph (a)(i) to (a)(iv),

(ii) in receipt of any benefit or allowance not mentioned at paragraph (a)(i) to (a)(iv) excluding paragraph (a)(v), or

(iii) entitled to any tax credit under the Tax Credits Act 2002 or element of such a tax credit that is so prescribed.

(3) This section has effect for the duration of the coronavirus response.

(4) For the purposes of this section—

“meals” means food made available for consumption by the child for that child's lunch;

“school holidays” means, in relation to a school, any day on which at that school there is no school session.

Educational impact assessment

42 Coronavirus restrictions educational impact assessment: England and Wales

(1) Before making a temporary closure direction under Schedule 16 to the Coronavirus Act 2020, the appropriate Minister must carry out a coronavirus restrictions education impact assessment (“an assessment”).

(2) An assessment under this section is an assessment of the impact of the envisaged closure of an educational institution.

(3) An assessment must, in particular, consider —

(a) the socio-economic position of pupils,

(b) the best interests of pupils,

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- (c) the rights of disabled pupils, including those with special educational needs,
 - (d) the rights of clinically vulnerable pupils,
 - (e) the impact of a temporary closure direction on pupils’ mental health and wellbeing,
and
 - (f) the risk to pupils of digital exclusion as a result of a temporary closure direction.
- (4) An assessment must take into account the opinions of pupils who are capable of forming their own views on any proposed temporary closure direction.
- (5) Where a pupil under subsection (4) is capable of forming their own view on any proposed temporary closure direction, due weight should be given to the age and maturity of that pupil.
- (6) Where an assessment identifies an impact, it must specify measures to address that impact.
- (7) An assessment must also, in particular, consider the impact of a temporary closure direction on—
- (a) employees of that educational institution;
 - (b) parents and guardians of pupils enrolled at that educational institution;
 - (c) the local authority area in which the educational institution is located.
- (8) The appropriate Minister must publish an assessment under subsection (1) 7 days prior to a temporary closure direction being made.
- (9) In this section—
- “digital exclusion” means barriers to—
- (a) accessing or using digital devices, or
 - (b) accessing or connecting to the internet,
- for educational purposes.
- “educational institution”—
- in relation to England, has the same meaning as in paragraph 1(11) of Schedule 16 to the Coronavirus Act 2020;
 - in relation to Wales, has the same meaning as in paragraph 1(12) of Schedule 16 to the Coronavirus Act 2020;
- “pupils” means children enrolled at the educational institution for which an assessment must be carried out under subsection (1).

43 Coronavirus restrictions educational impact assessment: Scotland

(1) Where the Scottish Minister makes a temporary closure direction in relation to an educational establishment, a coronavirus restrictions educational impact assessment (‘an assessment’) must be carried out prior to the making of that direction.

(2) An assessment under this section is an assessment of the impact of the envisaged closure of an educational establishment.

(3) An assessment must, in particular, consider —

- (a) the socio-economic position of pupils,
- (b) the best interests of pupils,
- (c) the rights of disabled pupils, including those with special educational needs,
- (d) the rights of clinically vulnerable pupils,
- (e) the impact of a temporary closure direction on pupils’ mental health and wellbeing, and
- (f) the risk to pupils of digital exclusion as a result of a temporary closure direction.

(4) An assessment must take into account the opinions of pupils who are capable of forming their own views on any proposed temporary closure direction.

(5) Where a pupil under subsection (4) is capable of forming their own view on any proposed temporary closure direction, due weight should be given to the age and maturity of that pupil.

(6) Where an assessment identifies an impact, it must specify measures to address that impact.

(7) An assessment must also, in particular, consider the impact of a temporary closure direction on—

- (a) employees of that educational establishment;
- (b) parents and guardians of pupils enrolled at that educational establishment;
- (c) the local authority area in which the educational establishment is located.

(8) The Scottish Minister must publish an assessment under subsection (1) 7 days prior to a temporary closure direction being made.

(9) In this section—

“digital exclusion” means barriers to—

- (a) accessing or using digital devices, or

(b) accessing or connecting to the internet,

for educational purposes.

“educational establishment” has the same meaning as in paragraph 6 of Schedule 16 to the Coronavirus Act 2020.

“pupils” means children enrolled at the educational establishment for which an assessment must be carried out under subsection (1).

44 Coronavirus restrictions educational impact assessment: Northern Ireland

(1) Where the Department makes a temporary closure direction in relation to—

(a) a school,

(b) a relevant institution, or

(c) a registered person,

(‘an educational establishment’), a coronavirus restrictions educational impact assessment (‘an assessment’) must be carried out prior to the making of that direction.

(2) An assessment under this section is an assessment of the impact of the envisaged closure of an educational establishment under subsection (1).

(3) An assessment must, in particular, consider —

(a) the socio-economic position of pupils,

(b) the best interests of pupils,

(c) the rights of disabled pupils, including those with special educational needs,

(d) the rights of clinically vulnerable pupils,

(e) the impact of a temporary closure direction on pupils’ mental health and wellbeing,
and

(f) the risk to pupils of digital exclusion as a result of a temporary closure direction.

(4) An assessment must take into account the opinions of relevant children who are capable of forming their own views on any proposed temporary closure direction.

(5) Where a relevant child under subsection (4) is capable of forming their own view on any proposed temporary closure direction, due weight should be given to the age and maturity of that pupil.

(6) Where an assessment identifies an impact, it must specify measures to address that impact.

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(7) An assessment must also, in particular, consider the impact of a temporary closure direction on—

- (a) employees of that educational establishment;
- (b) parents and guardians of pupils enrolled at that educational establishment;
- (c) the local authority area in which the educational establishment is located.

(8) The Department must publish an assessment under subsection (1) 7 days prior to a temporary closure direction being made.

(9) In this section—

“a relevant institution” has the same meaning as in paragraph 15 of Schedule 16 to the Coronavirus Act 2020;

“a registered person” means a person registered under Article 118 of the Children (Northern Ireland) Order 1995 (child minders and those who provide day care);

“digital exclusion” means barriers to—

- (a) accessing or using digital devices, or
- (b) accessing or connecting to the internet,

for educational purposes;

“Department” means the Department for Education in Northern Ireland;

“relevant children” means children enrolled at the educational establishment for which an assessment must be carried out under subsection (1).

Remote education guidance: Right to inclusive education

45 Duty to secure all children’s right to inclusive education: England and Wales

(1) Where the Secretary of State makes a temporary closure direction in relation to an educational institution, statutory guidance on the provision of remote education must be published on those restrictions.

(2) Guidance under subsection (1) must have regard to the Secretary of State’s duty to secure every child’s access to inclusive education.

46 Duty to secure all children’s right to inclusive education: Scotland

(1) Where the Scottish Ministers makes a temporary closure direction in relation to an educational establishment, statutory guidance on the provision of remote education must be published on those restrictions.

(2) Guidance under subsection (1) must have regard to the Scottish Ministers' duty to secure every child's access to inclusive education.

47 Duty to secure all children's right to inclusive education: Northern Ireland

(1) Where the Department makes a temporary closure direction in relation to—

- (a) a school,
- (b) a relevant institution, or
- (c) a registered person,

(‘an educational establishment’), statutory guidance on the provision of remote education must be published on those restrictions.

(2) Guidance under subsection (1) must have regard to the Secretary of State's duty to secure every child's access to inclusive education.

48 Interpretation of this Chapter

In this Chapter—

“appropriate Minister” means—

- (a) in relation to England, the Secretary of State;
- (b) in relation to Wales, the Welsh Ministers;

“child” has the same meaning—

- (a) in relation to England and Wales, as in section 579(1) of the Education Act 1996;
- (b) in relation to Scotland, as in section 135 of the Education (Scotland) Act 1980;
- (c) in relation to Northern Ireland, as in Article 2 of the Education and Libraries (Northern Ireland) Order 1986 (NI 3).

“children” is to be construed accordingly;

“school” has the same meaning—

- (a) in relation to England and Wales, as in section 4 of the Education Act 1996;
- (b) in relation to Scotland, as in section 135 of the Education (Scotland) Act 1980;

(c) in relation to Northern Ireland, as in Article 2 of the Education and Libraries (Northern Ireland) Order 1986 (NI 3)

“temporary closure direction” means a direction made in accordance with Schedule 16 to the Coronavirus Act 2020.

CHAPTER 7

HOUSING AND ACCOMMODATION PROTECTIONS

49 Housing and accommodation protections

Schedule 5 has effect.

CHAPTER 8

EMPLOYMENT

Self-isolation support

50 Self-isolation support award: England, Scotland and Wales

(1) The Secretary of State must by regulations make provision to financially support employees and workers required to self-isolate due to coronavirus.

(2) Regulations made under subsection (1) must, in particular, make provision to enable an employee or worker to safely self-isolate where—

(a) that individual has tested positive for coronavirus, or

(b) that individual has had close contact with another person who has tested positive for coronavirus.

(4) When making regulations under subsection (1), the Secretary of State must consult the Scottish Ministers and the Welsh Ministers.

(5) A benefit awarded under this section shall be referred to as a ‘self-isolation support award’.

51 Self-isolation support award: Northern Ireland

(1) The Department must by regulations make provision to financially support employees and workers required to self-isolate due to coronavirus.

(2) Regulations made under subsection (1) must, in particular, make provision to secure the necessary conditions (‘the conditions’) required for an employee or worker to safely self-isolate where—

(a) that individual has tested positive for coronavirus, or

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(b) that individual has had close contact with another person who has tested positive for coronavirus.

(3) The Department may secure the conditions by awarding a benefit under, in particular, the—

(a) Welfare Reform (Northern Ireland) Order 2015;

(b) Welfare Reform Act (Northern Ireland) 2007;

(c) Jobseekers (Northern Ireland) Order 1995;

(d) Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(3) A benefit may be awarded under an enactment not mentioned in subsection (3) where the Department considers it to be necessary and appropriate.

(4) In this section, “the Department” means the Department for the Economy in Northern Ireland.

(5) A benefit awarded under this section shall be referred to as a ‘workers’ self-isolation support award’.

Health and safety

52 Workplace health and safety assessment

(1) An employer must ensure that, in so far as it is reasonably practicable, any workplace provided by that employer is COVID-secure.

(2) The duty of employers under subsection (1) extends to employees and persons other than employees.

(3) The appropriate national authority must by regulations make provision for COVID-secure measures in accordance with subsection (1).

(4) In this section—

(a) “COVID-secure” means securing the health and safety of a place, building or location by implementing measures to reduce the risk of infection, contamination or transmission of coronavirus.

(b) “employee” has the same meaning—

(i) in relation to England, Scotland and Wales, as in the Health and Safety at Work Act 1974;

(ii) in relation to Northern Ireland, as in the Health and Safety at Work (Northern Ireland) Order 1978.

Statutory Sick Pay

53 Statutory sick pay: removing the lower cap: England, Scotland, and Wales

(1) This section contains temporary modifications to Schedule 11 of the Social Security Contributions and Benefits Act 1992 for the duration of the coronavirus pandemic.

(2) Schedule 11 of the Social Security Contributions and Benefits Act 1992 has effect as if the following provisions were inserted:

(a) In paragraph 1, before “A period” add “(a)”.

(b) In paragraph 1, add:

“(b) For the purposes of paragraph 2(c), a period of incapacity for work is related to coronavirus if the employee is—

- (i) incapable by reason of infection or contamination with coronavirus, or
- (ii) deemed to be incapable by reason of coronavirus in accordance with regulations as the Secretary of State may provide,

of doing work which the employee can reasonably be expected to do under the employee's contract of service.”

(c) In paragraph 2(c), after “above”, add “except in relation to any period of incapacity for work related to coronavirus”.

54 Statutory sick pay: employment status: England, Scotland, and Wales

(1) This section temporarily modifies section 162 of the Social Security Contributions and Benefits Act 1992 (special classes of persons) for the duration of the coronavirus pandemic.

(2) Section 162 of the Social Security Contributions and Benefits Act 1992 (special classes of persons) has the effect as if:

“*employee*” were defined as:

an individual who has entered into or works under (or, where the employment has ceased, worked under)—

(a) a contract of employment, or

(b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual;

“*employer*”, in relation to an employee, means the person by whom the employee is (or, where the employment has ceased, was) employed.

(3) For regulation 16 of the Statutory Sick Pay (General) Regulations 1982 (SI 1982/894) (meaning of “employee”) substitute—

“16 Meaning of “employee”

In these regulations “employee” means an individual who has entered into or works under (or, where the employment has ceased, worked under)—

- (a) a contract of employment, or
- (b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual.”

55 Statutory sick pay: removing the lower cap: Northern Ireland

(1) Schedule 11 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (circumstances in which periods of entitlement to statutory sick pay do not arise) is amended as follows.

(2) In paragraph 1, before “A period” add “(a)”.

(3) In paragraph 1, add

“(b) In paragraph 2(c) “period of incapacity for work” has the meaning given by section 152.

(c) For the purposes of paragraph 2(c), a period of incapacity for work is related to coronavirus if the employee is—

- i. incapable by reason of infection or contamination with coronavirus, or
- ii. deemed to be incapable by reason of coronavirus in accordance with regulations as the Secretary of State may provide,

of doing work which the employee can reasonably be expected to do under the employee's contract of service.”

(4) In paragraph 2(c), after “above”, add “except relation to any period of incapacity for work related to coronavirus”

56 Statutory sick pay: employment status: Northern Ireland

(1) Within the meaning of Part X1 of the Social Security Contributions and Benefits Act 1992 (statutory sick pay)—

“*employee*” means:

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an individual who has entered into or works under (or, where the employment has ceased, worked under)—

(c) a contract of employment, or

(d) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual;

“*employer*”, in relation to an employee, means the person by whom the employee is (or, where the employment has ceased, was) employed.

(2) Regulation 16 of the Statutory Sick Pay (General) Regulations (Northern Ireland) 1982/263 (SR 1982/1084) (meaning of “employee”) is amended as follows.

(3) For paragraph 1 substitute the following:

““employee” means:

an individual who has entered into or works under (or, where the employment has ceased, worked under)—

(a) a contract of employment, or

(b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual”.

CHAPTER 10

ELECTIONS

Postponement of elections: parliamentary procedure

57 Parliamentary procedure

(1) The Coronavirus Act 2020 is amended as follows.

(2) In section 61 (power to postpone certain other elections and referendums), for subsection (9) substitute—

“(9) Regulations may not be made under subsection (1) unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

(3) In section 62 (power to postpone a recall petition under the Recall of MPs Act 2015), for subsection (6) substitute—

“(6) Regulations may not be made under subsection (2) unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

(4) In section 63 (power to make supplementary etc provision) is amended as follows, for subsection (5) substitute—

“(5) Regulations may not be made under subsection (1) unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Postponement of elections: human rights impact assessment

58 Electoral human rights impact assessment

(1) Where an election is to be postponed under Part 1 of the Coronavirus Act 2020 (‘the provisions’), an electoral human rights impact assessment (‘an assessment’) must be carried out by the appropriate national authority.

(2) Any assessment carried out pursuant to subsection (1) must be published before the provisions in subsection (3) are used.

(3) The provisions referred to in subsection (1) are—

- (a) section 61;
- (b) section 62;
- (c) section 63;
- (d) section 64;
- (e) section 66;
- (f) section 67;
- (g) section 68;
- (h) section 69;
- (i) section 70.

PART 2

SUPPLEMENTARY

59 Regulations

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- (1) Regulations under this Act are to be made by statutory instrument.
- (2) Before making regulations under this Act, the appropriate Minister must have particular regard to their obligations under—
 - (a) the Human Rights Act 1998,
 - (b) the Equality Act 2010 (in so far as that Act extends to England, Scotland, Wales or Northern Ireland), and
 - (c) in relation to Northern Ireland, section 75 of the Northern Ireland Act 1998 (statutory duty on public authorities).
- (3) Regulations under this Act may include consequential, supplementary, incidental, transitional, transitory or saving provision.
- (4) Regulations under this Act may not be made unless made in accordance with subsections (5) to (8).
- (5) Regulations made by the Secretary of State may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) Regulations made by the Scottish Ministers are subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010) (asp 10).
- (7) Regulations made by the Welsh Ministers may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
- (8) Regulations made by a Northern Ireland department are subject to the affirmative procedure within the meaning of section 41(4) of the Interpretation Act (Northern Ireland) 1954.

60 Expiry

This Act expires at the end of the period of six months beginning with the day on which it is passed.

61 Interpretation: key definitions

In this Act—

“appropriate national authority” means—

- (a) in relation to England, the Secretary of State,
- (b) in relation to Wales, the Welsh Ministers,
- (c) in relation to Scotland, the Scottish Ministers, and

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(d) in relation to Northern Ireland, a Northern Ireland department.

“coronavirus” has the same meaning as in section 1 of the Coronavirus Act 2020;

“coronavirus response” means six months from when this Act comes into force.

62 Repeals

The provisions specified in Schedule 7 are repealed to the extent shown.

63 Extent

(1) This Act extends to England, Scotland, Wales and Northern Ireland only, subject as follows.

(2) The following provisions extend to England, Scotland and Wales only—

(a) Section 36;

(b) Section 37;

(c) Section 50;

(d) Section 53;

(e) Section 54.

(3) The following provisions extend to England and Wales only—

(a) Section 1 and Schedule 1;

(b) Section 42;

(c) Section 44;

(d) Section 49.

(4) Section 5 extends to England only.

(5) The following provisions extend to Scotland only—

(a) Section 2 and Schedule 2;

(b) Section 7;

(c) Section 43;

(d) Section 46.

(6) Section 6 extends to Wales only.

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(7) The following provisions extend to Northern Ireland only—

- (a) Section 3 and Schedule 3;
- (b) Section 8;
- (c) Section 38;
- (d) Section 30;
- (e) Section 44;
- (f) Section 47;
- (g) Section 51;
- (j) Section 55;
- (k) Section 56.

64 Commencement

This Act comes into force on the day on which it is passed.

65 Short title

This Act may be cited as the Coronavirus (Rights and Support) Act 2021.

SCHEDULES

SCHEDULE 1

Section 1

AMENDMENTS TO PART 2A OF THE PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984

- 1 Part 2A of the Public Health (Control of Disease) Act 1984 has effect as if amended in accordance with this Schedule.
- 2 Section 45D (restrictions on power to make regulations under section 45C) has effect as if after subsection (4) there were inserted—
 - “(4A) Regulations under section 45C may not prohibit or enable the prohibition of participation in, or any activity in connection with, a protest or other industrial action.
 - (4B) Regulations under section 45C may not include provision imposing a restriction or requirement on people who are homeless.”
- 3 (1) Section 45F (health protection regulations: supplementary) has effect as if the following provisions were inserted.
 - (2) After subsection (1) insert—
 - “(1A) Before making health protection regulations, the Secretary of State must have particular regard to their obligations under—
 - (a) the Human Rights Act 1998, and
 - (b) the Equality Act 2010.”
 - (3) In subsection (5A), for “£5,000 or level 4 on the standard scale” substitute “level 1 on the standard scale”.
 - 4 (1) Section 45O (enforcement of Part 2A orders) has effect as if the following provisions were inserted.
 - (2) For subsection (1) substitute—
 - “(1) A person (P) commits an offence if—
 - (a) P acts in a way that may cause immediate harm to another person, and
 - (b) P’s action is intentional.”

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(3) In subsection (2), after “a fine” insert “not exceeding level one on the standard scale.”

(4) After subsection (5), insert—

“(6) In this section, “immediate harm” means exposure to coronavirus.”

5 After section 45O, insert—

“45OA Publication of data on enforcement of Part 2A orders

(1) Where a police force takes steps to enforce a Part 2A order, it must publish data on the investigation and prosecution of criminal offences and criminal penalties issued in accordance with this Part disaggregated according to age, ethnicity, gender, disability, the location of the enforcement action, the context of the enforcement and whether it was reactive, proactive or serendipitous action (‘enforcement data’).

(2) Enforcement data under subsection (1) must be published on the last working day of each calendar week that this Act is in force.

(3) In this section, “data” does not include personal data (which has the same meaning as in section 3 of the Data Protection Act 2018).

(4) In this section, “police force” means a police force in England and Wales maintained under the Police Act 1996.”

6 In Section 45P, insert:

(3) “Regulations made under this Part must expire no later than the end of a period of 28 days beginning with the date on which the regulations or restrictions were made.”

7 For section 45Q (parliamentary control) substitute—

“45Q Parliamentary control

(1) Regulations made under this Part may not be made by the Secretary of State unless a draft has been laid before and approved by a resolution of each House of Parliament.

(2) Regulations made under this Part may not be made by the Welsh Ministers unless a draft has been laid before, and approved by a resolution of, Senedd Cymru.”

8 Omit section 45R (emergency procedure).

9 After section 45R, insert—

“Publication of information

45RA Publication of information relevant to restrictions or requirements

(1) The appropriate Minister must publish any relevant information relating to a decision by the appropriate Minister to impose or alter restrictions or requirements under this Part.

(2) The relevant information must be published—

- (a) on the internet, and
- (b) in the London Gazette.

(3) The relevant information must be made available in an accessible format.

(4) In this section, “relevant information” means any evidence presented or provided to the Secretary of State which assesses, evaluates or monitors the risk infection or contamination to public health.

45RB Publication of guidance on restrictions or requirements

(1) Where the appropriate Minister imposes or alters restrictions or requirements under this Part, guidance must be published on those restrictions or requirements.

(2) Guidance published under subsection (1) may, in particular, include guidance regarding—

- (a) restrictions of gatherings;
- (b) restrictions on the movement of individuals or things;
- (c) closures of, or restrictions to, businesses.”

SCHEDULE 2

Section 2

AMENDMENTS TO SCHEDULE 19 TO THE CORONAVIRUS ACT 2020

- 1 Schedule 19 to the Coronavirus Act 2020 has effect as if amended in accordance with this Schedule.
- 2 Paragraph 2 (restrictions on power to make regulations under paragraph 1) has effect as if after subsection (4) there were inserted—
 - “(4A) Regulations under section 45C may not prohibit or enable the prohibition of participation in, or any activity in connection with, a protest or other industrial action.
 - “(4B) Regulations under section 45C may not include provision imposing a restriction or requirement on people who are homeless.”
- 3 (1) Paragraph 5 (health protection regulations: supplementary) has effect as if the following provisions were inserted—
 - (2) After subsection (1) insert—
 - “(1A) Before making health protection regulations, the Secretary of State must have particular regard to their obligations under—
 - (a) the Human Rights Act 1998, and
 - (b) the Equality Act 2010.”
 - (3) After subparagraph (3) insert—
 - “(3A) Where regulations made under paragraph 1(1) create an offence, a person (P) commits an offence only if—
 - (a) P acts in a way that may cause immediate harm to another person, and
 - (b) P’s action is intentional.”
 - (4) For subparagraph (4) substitute—
 - “(4) The maximum penalty that may be imposed for an offence created under the regulations is a fine not exceeding level 1 on the standard scale.”
 - 4 In paragraph 6 (health protection regulations: supplementary), for subparagraphs (2) to (6) substitute—

“(2) Regulations made under this Part must expire no later than the end of a period of 28 days beginning with the date on which the regulations were made.”

5 After paragraph 6 insert—

“Publication of data on enforcement

7 (1) Where a police force takes steps to enforce an order made under this Schedule, it must publish data on the investigation and prosecution of criminal offences and criminal penalties issued in accordance with this Part disaggregated according to age, ethnicity, gender, disability, the location of the enforcement action, the context of the enforcement and whether it was reactive, proactive or serendipitous action (‘enforcement data’).

(2) Enforcement data under subsection (1) must be published on the last working day of each calendar week that this Act is in force.

(3) In this section, “data” does not include personal data (which has the same meaning as in section 3 of the Data Protection Act 2018).

(4) In this section, “police force” means the Police Service of Scotland.

Publication of information relevant on restrictions or requirements

8 (1) Where the Scottish Ministers decide to impose or alter restrictions or requirements under this Part, the information relevant to that decision must be published (‘the relevant information’).

(2) As soon as reasonably practicable following a decision to impose or alter restrictions, the relevant information must be—

(a) published online, and

(b) published in the Edinburgh Gazette.

(3) Where relevant information is published it must be provided in an accessible format.

(4) In this section, “relevant information” includes evidence presented or provided to the Scottish Ministers which assesses, evaluates or monitors the risk of infection or contamination to public health.

Publication of guidance on restrictions or requirements

9 (1) Where the Scottish Ministers impose or alter restrictions or requirements under this Part, guidance must be published on those restrictions.

(2) Guidance published under subsection (1) may, in particular, include guidance regarding—

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- (b) restrictions of gatherings;
- (b) restrictions on the movement of individuals or things;
- (c) closures of, or restrictions to, businesses.”

SCHEDULE 3

Section 3

AMENDMENTS TO PART 1A OF THE PUBLIC HEALTH (NORTHERN IRELAND)
ACT 1967

- 1 Part 1A of the Public Health (Northern Ireland) Act 1967 has effect as if amended in accordance with this Schedule.
- 2 Section 25D (restrictions on power to make regulations under section 25C) has effect as if after subsection (4) there were inserted—
 - “(4A) Regulations under section 45C may not prohibit or enable the prohibition of participation in, or any activity in connection with, a protest or other industrial action.
 - “(4B) Regulations under section 45C may not include provision imposing a restriction or requirement on people who are homeless.”
- 3 (1) Section 25F (health protection regulations: supplementary) has effect as if the following provisions were inserted.
 - (2) After subsection (1) insert—
 - “(1A) Before making health protection regulations, the Department must have particular regard to—
 - (a) the Human Rights Act 1998, and
 - (b) the Equality Act 2010.”
 - (3) In subsection (6)(a), for “£10,000” substitute “level 1 on the standard scale”.
 - 4 For section 25L (period for which Part 1A order may be in force) substitute—

“25L Period for which Part 1A order may be in force

Regulations made under this Part must expire no later than the end of a period of 28 days beginning with the date on which the regulations were made.”
 - 5 (1) Section 25O (enforcement of Part 1A orders) has effect as if the following provisions were inserted.
 - (2) For subsection (1) substitute—
 - “(1) A person (P) commits an offence if—

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(a) P acts in a way that may cause immediate harm to another person, and

(b) P's action is intentional.

(1A) In subsection (1), “immediate harm” means exposure to coronavirus.”

(3) In subsection (2), for “level 5” insert “level 1”.

6 After section 25O, insert—

“25OA Publication of data on enforcement of Part 1A orders

(1) Where a police force is required to take steps to enforce a Part 1A order, it must publish data on the investigation and prosecution of criminal offences and criminal penalties issued in accordance with this Part, disaggregated according to age, ethnicity, gender, disability, the location of the enforcement action, the context of the enforcement and whether it was reactive, proactive or serendipitous action (‘enforcement data’).

(2) Enforcement data under subsection (1) must be published on the last working day of each calendar week that this Act is in force.

(3) In this section, “data” does not include personal data (which has the same meaning as in section 3 of the Data Protection Act 2018).

(4) In this section, “police force” means the Police Service of Northern Ireland.”

7 For section 25P (Assembly control) substitute—

“25Q Assembly control

Regulations made under this Part are subject to affirmative procedure.”

8 Omit section 25Q (emergency procedure).

9 After section 25Q, insert—

“Publication of information

25QA Publication of information relevant on restrictions or requirements

(1) Where the Department decides to impose or alter restrictions or requirements under this Part, the information relevant to that decision must be published (‘the relevant information’).

(2) As soon as reasonably practicable following a decision to impose or alter restrictions, the relevant information must be—

(a) published online, and

(b) published in the Belfast Gazette.

(3) Where relevant information is published it must be provided in an accessible format.

(4) In this section, “relevant information” includes evidence presented or provided to the Department which assesses, evaluates or monitors the risk infection or contamination to public health.

25QB Publication of guidance on restrictions or requirements

(1) Where the Department imposes or alters restrictions or requirements under this Part, guidance must be published on those restrictions.

(2) Guidance published under subsection (1) may, in particular, include guidance regarding—

(c) restrictions of gatherings;

(b) restrictions on the movement of individuals or things;

(c) closures of, or restrictions to, businesses.”

SCHEDULE 4

Section 11

PRISONS

Suspension of imprisonment for certain sentences etc

- 1 (1) This Part applies to any proceedings in which—
- (a) an adult has been summarily convicted on a plea of guilty or after trial,
 - (b) an adult has been convicted on a plea of guilty or after a trial on indictment, or
 - (c) committal to prison is being determined.
- (2) Where the relevant court determines that—
- (a) a determinate sentence of imprisonment, or
 - (b) order of committal,

is for a period of 24 months or less, the appropriate Minister is to suspend the order or sentence for the duration of the coronavirus response.

Release from criminal justice accommodation

- 2 (1) Where a person in criminal justice accommodation—
- (a) is an adult serving a determinate sentence of imprisonment, and
 - (b) that sentence is for a period of 24 months or less,
- the appropriate Minister must release that person on license.

- (2) Where a person in criminal justice accommodation—
- (a) has been committed to prison, and
 - (b) the order is for a period of 24 months or less,

the appropriate Minister order shall suspend the order and release the person for the duration of the coronavirus response.

(3) For the purposes of clause 2, criminal justice accommodation is defined in regulation 2 of the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020/1374.

Restrictions on remands in criminal justice accommodation

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- 3 (1) This regulation applies to any criminal proceedings in which the relevant court is determining whether to:
- (a) remand on bail, or
 - (b) remand in custody.
- (2) The relevant court shall remand a person on bail unless it can be shown that—
- (a) the person potentially poses—
 - (i) a risk to the life of one or more persons, or
 - (ii) a risk of serious injury to one or more persons, and
 - (b) the only way to mitigate that risk is by way of remand into custody.
- (3) In paragraph (2)(a)(ii) above, “serious injury” includes psychological injury, emotional harm or both.
- (4) In this paragraph “relevant court” means—
- (a) in England, Wales and Northern Ireland, a magistrates’ court or crown court;
 - (b) in Scotland, a Justice of the Peace Court or Sheriff Court.

Detention and training orders

- 4 (1) Where a child or young person in criminal justice accommodation has been sentenced to a detention and training order, the appropriate Minister shall order that the child or young person—
- (a) be released from detention, and
 - (b) complete the remaining term specified in the order as a period of training under supervision for the duration of the coronavirus response.
- (2) Where a child or young person is to be sentenced by a relevant court to a detention and training order, they shall—
- (a) not be detained, and
 - (b) shall complete the entirety of the term specified in the order as a period of training under supervision for the duration of the coronavirus response.
- (3) “Detention and training order”, in respect of an offender, is an order that the offender is subject, for the term specified in the order, to a period of detention and training followed by a period of supervision.

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Clinically vulnerable persons

5 (1) This paragraph applies to persons who are clinically vulnerable to coronavirus in criminal justice accommodation.

(2) In subparagraph (1) above a person is “clinically vulnerable” if a recognised medical practitioner identifies that if they were to contract coronavirus—

(a) that person’s risk of—

(i) serious injury, or

(ii) death;

(b) would be higher than the general population because of:

(i) a recognised medical condition, or

(ii) some other attribute or characteristic.

(3) If a person is clinically vulnerable, a sentencing court must treat that clinical vulnerability as a mitigating circumstance in determining the appropriate sentence.

(4) If a person is clinically vulnerable in criminal justice accommodation and—

(a) serving—

(i) a determinate sentence of 24 months or less, or

(ii) an indeterminate sentence, or

(b) serving any sentence of detention other than a detention and training order

the appropriate Minister must consider their release on any notification or application for release on coronavirus compassionate grounds.

(5) The appropriate Minister must release a clinically vulnerable person on coronavirus compassionate grounds unless it can be shown that—

(a) the person potentially poses:

(i) a risk to life of one or more persons, or

(ii) a risk of serious injury to one or more persons, and

(b) the only way to mitigate that risk is by way of continuing custody or detention.

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- (6) On any notification or application to the appropriate Minister that a person wishes to be considered for release on coronavirus compassionate grounds, a decision must be reached within a period of 48 hours.
- (7) Where release on coronavirus compassionate grounds is granted by the appropriate Minister, the release must take place as soon as practicable and in any event within 24 hours from the grant of release.

Provisions for persons in criminal justice accommodation

6 (1) All charges paid by persons in criminal justice accommodation relating to—

- (a) telephone calls;
- (b) email services;
- (c) writing materials,

are suspended for the duration of the coronavirus response.

- (2) If, at any time, visits are not permitted to criminal justice accommodation due to coronavirus, a secure video calling facility will be made available and permitted for use on the same basis as telephone calls would be permitted.

Interpretation

7 In this Schedule, “appropriate Minister” means—

- (a) in relation to England and Wales, the Secretary of State;
- (b) in relation to Scotland, the Scottish Ministers;
- (c) in relation to Northern Ireland, the Department of Justice.

SCHEDULE 5

Section 49

HOUSING AND ACCOMMODATION PROTECTIONS

Allocation of accommodation to vulnerable persons

1 (1) The appropriate national authority must by regulations make provision for the allocation of housing accommodation and / or support to persons who are, or risk becoming, vulnerable as a result of coronavirus or the coronavirus response.

(2) When making provisions under subsection (1), the appropriate Minister must, in particular, have regard to—

- (a) persons who are homeless or are threatened with homelessness;
- (b) persons at risk of harm;
- (c) persons from Gypsy, Roma and Traveller communities.

(3) Regulations made under subsection (1) must make provision for housing accommodation allocated to persons by virtue of those regulations to be safe and secure.

(4) Housing accommodation will be safe and secure where—

- (a) it is compliant with housing conditions under Part 1 of the Housing Act 2004 and conforms to the housing health and safety rating system;
- (b) it is of sufficient size to enable recipients to socially distance from other residents in the accommodation;
- (c) it has sufficient bathroom and kitchen facilities such that a recipient of accommodation will not need to share those facilities with more than three other residents (excluding persons who are family members);
- (d) in the case of a recipient of accommodation with a medical condition that places the recipient at an increased risk of coronavirus, housing accommodation is safe and secure where it is not occupied by any other person (excluding persons who are family members).
- (e) it is located in a place where the person feels safe and secure.

(5) “Housing accommodation” includes houses, flats, lodging-houses and hostels.

(6) “Homeless” and “Homelessness” have the same meanings as in section 175(1) of the Housing Act 1996.

(7) For the purposes of this section, “persons of Gypsy, Roma and Traveller communities” means—

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(a) persons of a nomadic habit of life, whatever their race or religion, including—

(i) persons who, on grounds only of their own or their family's or dependant's educational or health needs or old age, have ceased to travel temporarily or permanently, and

(ii) members of an organised group of travelling show people or circus people (whether or not travelling together as such), and

(b) all other persons with a cultural tradition of nomadism or of living in a mobile home.

(8) In subsection (8), “mobile home” has the same meaning—

(a) in relation to England, as “caravan” in section 29(1) of the Caravan Sites and Control of Development Act 1960),

(b) in relation to Wales, as “mobile home” in section 60 of the Mobile Homes (Wales) Act 2013.

Eligibility for housing assistance for people with no recourse to public funds ('NRPF')

2 (1) At the end of section 185(2A) of the Housing Act 1996, delete “.” and insert “, save to the extent required to make provision for persons prescribed under paragraph 2(2) of Schedule 5 of the Coronavirus (Rights and Support) Act.”

(2) The power under this paragraph may be exercised to provide housing assistance for all persons subject to immigration control within the meaning of the Asylum and Immigration Act 1996 for the duration of the coronavirus response.

Designation of coronavirus pandemic as an emergency

3 After section 138(7) of the Local Government Act 1972, insert:

“(8) For the purposes of this section, during any period prescribed by order by the Secretary of State, the coronavirus pandemic shall be regarded an emergency involving danger to life, likely to affect all or some of the inhabitants of every principal council.”

Exclusion of rent arrears incurred during the coronavirus pandemic for the purposes of possession

4 (1) For the purpose of a relevant provision under subparagraph (3), when considering the extent to which rent is unpaid, the amount (if any) by which arrears increased during the relevant period shall be disregarded.

Coronavirus (Rights and Support) Bill

(2) The relevant period is the duration of the coronavirus pandemic.

(3) The following are relevant provisions:

- (a) sections 6 and 7 of the Rent (Agriculture) Act 1976;
- (b) sections 98, 99 and 100 of the Rent Act 1977;
- (c) section Housing Act 1985;
- (d) sections 7 and 8 of the Housing Act 1988.

Prohibition on giving notice to quit etc. in respect of residential property

5 (1) During the relevant period no landlord or licensor may give valid notice under section 5 of the Protection From Eviction Act 1977, section 83 or 83ZA of the Housing Act 1985, section 8 of the Housing Act 1988,

(2) For the purposes of subparagraph (1), the relevant period is the duration of the coronavirus response.

Suspension of the police powers

- 6 (1) Section 61 of the Criminal Justice and Public Order Act 1994 is suspended
- (2) Section 62A of the Criminal Justice and Public Order Act 1994 is suspended.
- (3) Section 77 of the Criminal Justice and Public Order Act 1994 is suspended.

Suspension of planning injunctions

7 In the Town and Country Planning Act 1990, after Section 187 (B) insert –

“187 (C) A local planning authority may not make an application under (B) in connection with the residential usage of a movable structure, vehicle, or vessel designed or adapted for human habitation.

(D) In this section “moveable structures, vehicles, or vessel designed or adapted for human habitation” has the same meaning as s.175 2 (b) of the Housing Act 1996.”

SCHEDULE 6

Section 9

JOINT COMMITTEE ON CORONAVIRUS

Membership

1 (1) The members of the Joint Committee on Coronavirus (“the Committee”) are—

- (a) six members of the House of Commons who are not Ministers of the Crown, appointed by the House of Commons.
- (b) six members of the House of Lords who are not Ministers of the Crown, appointed by the House of Lords.

Term of office

2 (1) A person appointed under section 1 (“an appointed member”) ceases to be a member of the Committee if—

- (a) another person is appointed in the person’s place, or
- (b) the person ceases to be a member of the House of Commons or House of Lords.

(2) An appointed member may resign from the Committee by giving notice to the Committee.

Terms of reference

3 (1) The Committee shall consider and report on—

- (a) the evidence base for regulations made under the Public Health (Control of Disease) Act 1984, including the necessity and proportionality of such regulations;
- (b) the exercise by public authorities of powers provided by regulations made under the Public Health (Control of Disease) Act 1984;
- (c) the equality and human rights impact of the coronavirus pandemic in the United Kingdom (excluding individual cases).

(2) A report under subsection (1) must, in particular, include information about —

- (a) the evidence base for regulations made under the Public Health Act 1984, including the necessity and proportionality of such regulations;
- (b) the exercise by public authorities of powers provided by regulations made under the Public Health Act 1984; and
- (c) the equality and human rights impact of the coronavirus pandemic in the United Kingdom (excluding individual cases).

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(3) The Committee may consider and report on any new primary legislation relating to coronavirus.

Committee powers

5 (1) The Committee shall have the power to —

- (a) send for persons, papers and records,
- (b) sit notwithstanding any adjournment of the House of Commons or House of Lords,
- (c) report from time to time, and
- (d) appoint specialist advisers to supply information which is not readily available or elucidate matters of complexity.

Committee proceedings

6 (1) The Committee may determine its own procedure.

(2) The quorum of the committee shall be three.

(3) The validity of any proceedings of the Committee is not affected by—

- (a) a vacancy among the members, or
- (b) a defect in the appointment of a member.

SCHEDULE 7

Section 62

REPEALS

| <i>Provision</i> | <i>Extent of repeal</i> |
|----------------------------|--|
| Coronavirus Act 2020 (c.7) | Section 10 |
| | Sections 14 to 17 |
| | Sections 22 to 24 |
| | Sections 30 to 31 |
| | Sections 51 to 52 |
| | Section 81 |
| | Sections 85 to 102 |
| | Schedule 8 |
| | Schedule 9 |
| | Schedule 10 |
| | Schedule 11 |
| | Schedule 12 |
| | In Schedule 17— |
| | (a) paragraph 5(5)(g); |
| | (b) paragraph 6, the entry in the table relating to section 43 of the Children and Families Act 2014 |
| | Schedule 21 |
| | Schedule 22 |
| | Schedule 29. |