

Covid-19 : The Coronavirus (Scotland) Act 2020

The Coronavirus / COVID-19 pandemic prompted the Scottish Government to introduce some temporary measures to mitigate the effects of the shutdown. The new legislation, The Coronavirus (Scotland) Act 2020 (CSA) came into effect on 7 April 2020.

This article summarises the changes in the law that most affect our areas of practice.

Please note, due to the pace at which the impact of the present Coronavirus / COVID-19 pandemic is evolving, this article can only seek to offer insights as at the date of publication. It is acknowledged that the position may change over the coming days, weeks and months.

What changes are there to housing law?

Please see our [Covid-19 guide for private landlords regarding changes to residential tenancies](#) for a summary of the changes to housing law.

I have heard some courts are closed and hearings are being cancelled. What does the new Act say about that?

Some courts have closed altogether but their business is being dealt with at other locations.

The courts have been putting off all non-urgent hearings. If a case is considered urgent, then it is likely to proceed. However, only very few cases are considered to be urgent, so unless the court is persuaded that any particular case has to proceed now, then it may not.

Certain non-urgent cases may eventually continue but by video link rather than having a hearing in court. The CSA provides for the courts to be able to do this and to allow court documents to be lodged electronically, even where normally an original document or signature would be needed.

The Government seems to be moving towards trying to have hearings conducted remotely. However, criminal and urgent civil business are still expected to take priority and if ordinary civil cases do start to be heard then there are likely be logistical barriers to overcome in each case.

Our debt recovery team offers a guide on these matters [here](#).

I have heard that Freedom of Information (FOI) and document publication rules have been modified. What are the changes?

The Government has changed the rules so that bodies that are required to respond to FOI requests have more time to do so. They now have an extra forty working days.

The CSA also makes provision for some bodies to be allowed to extend the compliance period by up to another forty working days, but this will require a further enactment before it will become law.

If any body fails to comply with a FOI request and that failure is linked to the effects of the Coronavirus, then the Information Commissioner has the power to excuse the failure.

If a public body has a duty to publish a report or other document within a certain time limit, that duty can be postponed provided the body explains its decision and complies with the duty as soon as it becomes reasonably practicable to do so.

Is there any effect on planning permissions?

Yes. If a grant of planning permission is about to expire, then it will not expire until a year after the relevant part of the CSA comes into force. Likewise if an application following upon permission being granted in principle has to be made within the period covered by the CSA, that time limit will be extended in the same way.

What changes will there be to bankruptcy and insolvency law?

The insolvency of companies is reserved to Westminster and there is expected to be provision made by the UK Government. See our [Covid-19 Guide for businesses facing insolvency, and associated directors' duties](#).

In Scotland, the CSA provides that if an individual (or a trust, partnership or unincorporated association) intends to apply for voluntary bankruptcy, he will be allowed an extended time for that application to be made and dealt with, without being the subject of bankruptcy proceedings or other debt enforcement by his creditors in the meantime. This time is normally six weeks but it is now extended to six months.

In addition, there is normally a rule that prevents someone applying for voluntary sequestration twice within a year. That prohibition has been removed temporarily.

What other changes are in the CSA?

There are substantial sections on criminal court proceedings, licencing of various kinds and changes to provisions and attendance at children's hearings and regarding care of adults with incapacity, which are not commented on here.

There are also various other miscellaneous provisions, some of which are:

- Local authorities may exclude the public from council meetings
- Public bodies can be given more time to publish their accounts
- Certain devolved social security application time limits are extended
- The period of notice for termination of commercial leases for non-payment of rent is extended from 14 days to 14 weeks. For more information on this see our [Covid-19 Guidance for commercial property landlords](#)
- Land registration procedures have been modified to allow registration by e-mail
- The period for anatomical examination of cadavers with permission is extended
- The process for making regulations has been modified to reduce the processes required
- Business Improvement Districts arrangements will be extended to take account of the emergency period



- Muirburning is banned for the duration of the emergency period.

If you would like any additional information regarding the impact of the new legislation, please get in touch with your usual contact at Lindsays, or:

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