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# THE CORONAVIRUS ACT ANALYSIS

Presented to Parliament

by the Secretary of State for Health and Social Care

by Command of Her Majesty

September 2020





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ISBN 978-1-5286-2152-6

CCS0920231018

09/20

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the APS Group on behalf of the Controller of Her Majesty's Stationery Office

# THE CORONAVIRUS ACT 2020

## Background

1. The UK government's coronavirus action plan, published on 3 March, set out measures to respond to the COVID-19 pandemic that are reasonable, proportionate and based on the latest scientific evidence. Specifically, it detailed:
  - i. what we knew about the virus and the disease it causes
  - ii. how we have planned for an infectious disease pandemic
  - iii. what we planned to do next, depending on the course the coronavirus pandemic takes
  - iv. the role the public could play in supporting this response, now and in the future.
2. The plan included information on the government's 4-stage strategy: contain, delay, research, mitigate. It set out advice for how the public should respond in each stage, including what to expect as the pandemic advances.
3. The plan also envisaged that changes to legislation might be necessary in order to give public bodies across the UK the tools and powers they need to carry out an effective response to this emergency. On 25 March, the Coronavirus Act 2020 received Royal Assent and became law. This paper sets out the elements of the Act and the reasons why they are needed.
4. The development of an effective response to the pandemic required several actions. Some of these involved the use of tools and powers that are set out in statute. The governments of the UK therefore resolved to review and where necessary amend existing legislation, to ensure that the UK's response was consistent and effective.
5. The Coronavirus Act gives us the powers we need to take the right action at the right time to respond effectively to the progress of the pandemic.
6. Some of the measures the Act deal with easing the burden on frontline NHS and adult social care staff, some help staff by enabling them to work without financial penalty, and some support people and communities in taking care of themselves, their families and loved ones, and their wider community.

7. A balance has had to be struck between protecting the public's health, and safeguarding individuals' rights; and between acting swiftly to respond to fast moving events, whilst ensuring accountability and transparency. A two-year life span for this Act has been chosen to ensure that its powers remain available for a reasonable length of time, with the option for the provisions in the Act to be extended by the relevant national authority .
8. These provisions are also subject to a six-monthly review and renewal vote in the House of Commons. They may be terminated early, if the science warrants it. They are also subject to a two-monthly report to Parliament, and an annual debate.
9. Many of the provisions can be suspended if the scientific advice is that they are not needed and revived again if it says that they are. This is a flexible and proportionate response to a major crisis.
10. We have worked closely with the devolved administrations to develop an effective package of measures to support frontline staff and individuals involved in this vital national response.

## **Contents of the Act**

11. The Act enables action in 5 key areas:
  - i. increasing the available health and social care workforce – for example, by removing barriers to allow suitably experienced people, such as recently retired NHS staff and social workers to return to work (and in Scotland, in addition to retired people, allowing those who are on a career break or who are social worker students to become temporary social workers)
  - ii. easing and reacting to the burden on frontline staff – by reducing the number of administrative tasks they have to perform, enabling local authorities to prioritise care for people with the most pressing needs, allowing key workers to perform more tasks remotely and with less paperwork, and introducing a power to suspend individual port operations if necessary for the security of the border
  - iii. containing and slowing the virus – to manage the spread of coronavirus, the Coronavirus Act 2020 (“the Act”) provides Public Health Officers (PHO) with powers to control the spread of coronavirus in the UK
  - iv. managing the deceased with respect and dignity – by enabling the death management system to deal with increased demand for its services

- v. supporting people – by allowing individuals to receive Statutory Sick Pay from day one, and supporting businesses, for example by providing powers that will ensure the governments of the UK are able to support the food industry to maintain supplies
12. The Act significantly enhanced the ability of public bodies across the UK to provide an effective response to tackle this pandemic.

### **Increasing the available health and social care workforce**

13. Although we are implementing measures to save lives through delaying and flattening the peak of the pandemic, the coming months will continue to present a significant level of challenge for the NHS and anyone working in caring professions. As in all sectors, there will be pressures from increased staff absence, if staff are unwell or self-isolating with their households.
14. In addition to this, there will continue to be people becoming ill with COVID-19 and some of these people will require medical treatment or need to be admitted to hospital. These additional patient volumes will place pressure on our NHS. To ensure the best possible level of care is provided to those most in need, we needed to be able to take measures to increase the available health and social care workforce and reduce the number of administrative tasks they must perform so they have more time to spend with patients.
15. To support this, the Act:
- i. enables regulators to emergency register suitable people as regulated healthcare professionals, such as nurses, midwives or paramedics. This can include (but will not be limited to) recently retired professionals and students who are near the end of their training. Registered staff can then be used appropriately, with decisions made on a local basis, to increase the available health and social care workforce and enable essential health and care services to function during the height of the pandemic
  - ii. enables regulators to temporarily register suitable people as social workers, which can include those who have recently left the profession. This will ensure vital continuity of care for vulnerable children and adults
  - iii. enables employees and workers to take Emergency Volunteer Leave in blocks of 2, 3 or 4 weeks' statutory unpaid leave and establish a UK-wide compensation fund to compensate for loss of earnings and expenses incurred at a flat rate for those who volunteer through an appropriate authority. Volunteers play a critical role in the delivery of health and social care services and are particularly important in caring for the most vulnerable in our



society, such as the elderly, those with multiple long-term conditions or those suffering from mental ill-health. Emergency Volunteering Leave and the associated compensation scheme will only come into force once triggered by the Secretary of State for Health, in agreement with the devolved administrations

- iv. enables ministers to provide indemnity for clinical negligence liabilities in tort arising from health service activities or in Northern Ireland activities within the system of health and social care carried out for the purposes of dealing with, or because of, the coronavirus pandemic, where there is no existing indemnity arrangement in place. This will ensure that those providing such activities have appropriate clinical negligence indemnity cover for the work they are required to undertake as part of the COVID-19 response. This is in line with and will complement existing arrangements
- v. suspends the rule that currently prevents some NHS staff who return to work after retirement from working more than 16 hours per week, along with rules on abatements and draw-down of NHS pensions that apply to certain retirees who return to work. This will allow skilled and experienced staff who have recently retired from the NHS to return to work, and allow retired staff who have already returned to work to increase their commitments if required, without having their pension benefits suspended
- vi. enables the Welsh Ministers to dis-apply specific Disclosure and Barring Service (DBS) provisions to enable timely recruitment and deployment of staff across social care and independent health care.

### **Easing the burden on frontline staff, both within the NHS and beyond**

- 16. In the NHS and in other sectors who undertake activities that are vital to keeping the country running safely and securely, we knew that we may also face increased pressures as a result of staff absence or increased work volumes. This could include those caring for children or in education, protecting our borders, detaining and treating people under the Mental Health Act, supporting local authorities and ensuring national security. By reducing the burden of delivering non-critical tasks they must perform, allowing key workers to perform more tasks remotely and with less paperwork, we can enable these crucial services to continue to operate effectively during periods of reduced staffing.
- 17. To support this the Act:

- i. enables existing Mental Health Act powers to detain and treat patients who need urgent treatment for a mental health disorder and are a risk to themselves or others, to be implemented using just one doctor's opinion (rather than the current two). This will ensure that those who were a risk to themselves or others would still get the treatment they need, when fewer doctors are available to undertake this function
  - ii. temporarily allows extension or removal of time limits in mental health legislation to allow for greater flexibility where services are less able to respond. These temporary changes would be brought in only in the instance that staff numbers were severely adversely affected during the pandemic period and provide some flexibility to help support the continued safe running of mental health services
  - iii. allows NHS providers to delay undertaking the assessment process for NHS continuing healthcare for individuals being discharged from hospital until after the emergency period has ended
  - iv. makes changes to the relevant adult social care legislation in England, Wales and Scotland to enable local authorities to prioritise the most urgent and serious care needs, whilst still satisfying the duty to provide care and support to a relevant person, even if this involves not conducting a full needs assessment or delaying some assessments During the pandemic, a lot of people who work in health and social care could be off sick or may need to care for loved ones. This could mean that local authorities, which are responsible for social care, may not be able to do all the things they are usually required to do.
- 18. Local authorities will still be expected to do as much as they can to comply with their duties to meet needs during this period and these provisions are underpinned by a local authority duty to meet an individual's needs where not doing so would breach their human rights.
- 19. These powers would only be used if demand pressures and workforce illness during the pandemic meant that local authorities were at imminent risk of failing to fulfil their duties and only last the duration of the emergency. It would ensure that local authorities will continue to be able to deliver the best possible care services during the peak and to protect the lives of the individuals with care and support needs.
  - i. temporarily relaxes local authorities' duties in relation to their duties to conduct a needs assessment and prepare an adult carer

support plan/young carer statement under the Social Work (Scotland) Act 1968, the Children (Scotland) Act 1995, the Social Care (Self-directed Support) (Scotland) Act 2013 and the Carers (Scotland) Act 2016 to enable them to prioritise people with the greatest needs

- ii. provides powers to require educational institutions or childcare providers to stay open and relax some requirements around education legislation. These powers will help ensure schools and childcare providers can assist children of key workers, vulnerable children and children with special needs during the Coronavirus Emergency. Guidance has been published defining vulnerable children and our expectations regarding their attendance in education settings at this time
- iii. enables the Secretary of State to direct that port (including airport and international rail terminal) operators suspend specified operations if, as a result of COVID-19, there is a real and significant risk that there are or will be insufficient border force officers to maintain adequate border security. This will enable Border Force resources to be redistributed if necessary, to ensure the UK can maintain adequate border security. This would only be used in extremis, where necessary and proportionate, and any direction will be kept to the minimum period necessary to maintain the security of the UK border
- iv. expands availability of video and audio link in court proceedings in England, Wales and UK-wide for extradition proceedings. This includes magistrates' court hearings taking place by phone or by video, should an individual appeal restriction of movement due to quarantine measures. This will ensure that an appeal takes place but will not require a person to break quarantine in order to attend in person. It will also enable the expansion of the availability of video and audio link in various criminal proceedings, including full video and audio hearings in certain circumstances, and public participation in relation to court and tribunal proceedings conducted by audio and video. The measures will enable a wider range of proceedings to be carried out by video, so that courts can continue to function and remain open to the public, without the need for participants to attend in person. This will give judges more options for avoiding adjournments and keeping business moving through the courts to help reduce delays in the administration of justice and alleviate the impact on families, victims, witnesses and defendants

- v. makes it possible for a single commissioner or a single Treasury minister to sign instruments and act on behalf of the commissioners, during a COVID-19 emergency period. Under current rules, where any instrument or act is required to be signed by the Commissioners of Her Majesty's Treasury, it must be signed by two or more of the commissioners. This change ensures that the UK Treasury can always transact its business during a COVID-19 emergency period, should commissioners be unable to fulfil their duty
- vi. allows the Secretary of State, on a request from the Investigatory Powers Commissioner, to make Regulations to provide for temporary judicial commissioners (JCs) to be appointed by the Investigatory Powers Commissioner, if there are insufficient JCs available to operate the 'double lock' system under the Investigatory Powers Act 2016. This is one of the critical pieces of domestic legislation for national security and in preventing serious crime it provides the statutory basis for the use of most investigatory powers by the intelligence and law enforcement agencies, using warrants issued under the act. These warrants provide the agencies with the capability they need to protect national security and investigate and prevent serious crime. The Home Secretary, again at the request of the Investigatory Powers Commissioner, will also be allowed to vary the time allowed for urgent warrants to be reviewed by a JC and how long they can last before they need to be reviewed. The maximum time allowed for an urgent warrant to be reviewed is extended from three to nine working days and the relevant time period for an urgent warrant to be renewed or cancelled may be increased to a maximum of 12 days (up from the current five days). Maintaining national security capabilities at a time of potential widespread upheaval is critical and it is necessary to ensure that the powers to vary specific aspects of the regime are available to the government should they be deemed necessary, for example if there are fewer JCs available than usual. Regulations made under these powers cannot exceed 12 months
- vii. provides for regulations to be made so that biometrics (fingerprints and DNA profiles) held for national security purposes can be retained for up to an additional six months. This is so that the effects of coronavirus on the police, including limitations on staff travel (and the implications this has in terms of accessing sensitive material on high classification systems) and reallocation

of staff to critical policing functions, do not compromise a critical national security capability. In the past year, biometric material has, for example, provided evidence of potential terrorist offences. It is vitally important that this material is not automatically deleted because the effects of coronavirus restrict the capacity of chief officers of police to consider the case for making or remaking national security determinations.

## **Delaying and slowing the virus**

20. The government's objective is to delay and flatten the peak of the pandemic by bringing forward the right measures at the right time, so that we minimise suffering and save lives. To slow the virus, we need people to reduce unnecessary social contacts, which, for periods of time, may mean preventing gatherings of people, postponing electoral events over the course of the year or closing schools, further or higher education premises or childcare providers. This helps mitigate the risk to public health arising from such gatherings.
21. These measures are intended to be used only where necessary, to help minimise disruption to everyday life and progression of children and young people to further and higher education or employment. They are only intended to be put in place, as needed, for the period required to mitigate the effects of the COVID-19 pandemic.
22. To support this, the Act:
  - i. enables the government to restrict or prohibit events and gatherings during the pandemic and, where necessary, to restrict entry, impose restrictions on remaining in or close premises. Premises include any place and in particular vehicles, trains, vessels or aircraft, any tent or movable structure and any offshore installation
  - ii. provides a temporary power to close educational establishments or childcare providers
  - iii. postpones the local government and mayoral elections that were due to take place in England and the Police and Crime Commissioner elections in England and Wales in May this year until 6 May 2021. Regulations under power in the Act have also been made to postpone other electoral events in the UK over the course of the year (such as local by-elections and local governance and neighborhood planning referendums) to a date no later than 6 May 2021.

23. The powers in the Act also enable the imposition of proportionate requirements (which may include screening and isolation, for example) and other appropriate restrictions, on individuals where:
- i. a Public Health Officer has reasonable grounds to suspect that an individual in England is, or may be, infected or contaminated with coronavirus and considers that there is a risk that they will infect or contaminate others, or
  - ii. where a Public Health Office has reasonable grounds to believe the individual has recently travelled from a specified infected area.
24. It is also important that all UK countries have equivalent legal measures in place to delay or prevent further transmission of the virus, to ensure consistency across the whole UK. For example, removing a current restriction in how Scottish territorial Health Boards can deliver vaccination programmes would mean that, when a vaccine becomes available, it can reach as many people as possible. To support this, the Act seeks to:
- i. enable the departments of health in Northern Ireland and Scotland to make regulations for additional measures to be introduced to help them delay or prevent further transmission of COVID-19. Equivalent powers already exist in England and Wales
  - ii. remove a restriction in how Scottish territorial Health Boards can deliver vaccination programmes so a wider range of healthcare professionals in Scotland would be able to administer a vaccine.
25. Public support and compliance are crucial and we are grateful for the flexibility people have shown, but we need to ensure police and immigration officers have the authority to enforce these measures where necessary. Therefore, the Act enables the police and immigration officers to detain a person, where necessary, for a limited period, who is, or may be, infectious and to take them to a suitable place to enable screening and assessment.

### **Managing the deceased with respect and dignity**

26. The steps the government are taking to respond to the COVID-19 pandemic will save lives. However, sadly, as has already been seen, people will lose loved ones as a result of this disease. We wanted to ensure the deceased are treated with the utmost respect and dignity and that existing procedures in relation to death and still-birth registration and management were modified to enable this and to protect public health. This will take account of the fact that families who have lost a loved one may be self-isolating, and that there may be reduced

capacity to register and manage deaths as a result of pandemic-related sickness absence.

27. The Act makes changes to:

- i. provide that the duty for a coroner to be notified of a death by a doctor where there is no attending doctor or that they are not available within a reasonable time of the death only applies where:
  - a. the doctor also believes there is no other medical practitioner who may sign the death certificate, or
  - b. that the other medical practitioner is not available within a reasonable time of the death.

28. This reflects the revised provisions in the Act for completion of the medical certificate of cause of death. In Northern Ireland changes have been made to who can sign the death certificate but all unnatural deaths must still be reported to the Coroner's office.

- i. introduce powers to enable the provisions under the Burial and Cremation (Scotland) Act 2016 relating to the collection of ashes to be suspended and replaced with a duty to retain until the suspension is lifted, except where family wishes are known. Also, suspend an offence in section 49 of the 2016 Act, allowing any relative of the deceased to complete the cremation application form, regardless of the required hierarchy set out by section 65 of the 2016 Act
- ii. expand the list of people who can register a death to include funeral directors acting on behalf of the family
- iii. allow family members and others who are required to give information about a death or still-birth to the registrar, to give that information by telephone or other means, rather than in person
- iv. enable electronic transmission of documents that currently must be physically presented in order to certify the registration of a death or still-birth
- v. permit a registered medical practitioner who did not attend the deceased during their last illness to sign the death certificate if the cause of death can be stated to the best of that medical practitioner's knowledge and belief
- vi. change the time period in which the certifying doctor must have seen the patient before death from 14 to 28 days, and provide that any doctor could have seen the deceased, not just the

certifying doctor, before the requirement to refer to the coroner is triggered

- vii. remove the need for a second confirmatory medical certificate for a cremation to take place
  - viii. remove the Coroners and Justice Act 2009 and the Coroners Act (Northern Ireland) 1959 requirement that any inquest into a COVID-19 death must be held with a jury. Other notifiable diseases will still require an inquest with a jury
  - ix. suspend the referral of certificates to the Death Certification Review Service (DCRS) for review in Scotland under the Certification of Death (Scotland) Act 2011. The timing of the suspension to be at the discretion of Scottish Ministers.
29. The Act introduced new powers in relation to transportation, storage and disposal of deceased bodies. These powers can be used to help understand and improve capacity in the death management system and minimise any risks to public health, whilst ensuring the deceased are treated with dignity and respect. These powers include, amongst other things, powers for local and national authorities to direct others within the system to ensure it is operating effectively and has the necessary support.
30. The Act temporarily disapplies statutory provisions preventing cremation against the deceased's wishes. However, the Government's overriding objective is to protect personal choice as far as possible and the Act imposes a duty on local and national authorities to have regard for the deceased's wishes, religion or belief, if known, before any direction is given regarding the final committal of the deceased's body. As there are no significant national capacity concerns with regard to burial space in the context of the Covid response, it is unlikely that the wishes of the deceased or their next of kin would not be met.

## **Protecting and supporting people**

31. As COVID-19 spreads, the number of people off work will increase significantly. This includes those that were displaying-virus like symptoms and those who are self-isolating as a precautionary measure.
32. We wanted to ensure the Statutory Sick Pay (SSP) provisions support people in complying with government guidance on self-isolation and have given these retrospective effect from 13 March 2020. By ensuring that people receive SSP from the first day that they are off work due to coronavirus, we will ensure that those who are unwell or who are self-isolating as a precaution can do so without the fear of losing sick pay. By refunding small businesses, we hope to alleviate the significant financial burden on employers through increased SSP costs.



33. The Act therefore:

- i. gives the UK Government the power to temporarily suspend the rule that means SSP is not paid for the first 3 days of work that you miss because of sickness or self-isolation due to COVID-19. These days are known as waiting days
- ii. gives the government power to establish a rebate scheme for employers to reclaim SSP paid for sickness absences relating to COVID-19 during the period of the pandemic. The rebate scheme is open to employers with fewer than 250 employees and enables them to claim rebate of SSP for up to two weeks per employee
- iii. temporarily increases the basic element of Working Tax Credit, so working households are financially supported through this crisis
- iv. makes it easier to make changes to National Insurance contributions, giving the government the ability to respond to the changing situation quickly if necessary
- v. in relation to Coronavirus-related assistance provided to business, disapplies the limit under the Industrial Development Act 1982, to ensure the necessary COVID-19 related support to UK businesses can continue to be provided in relation to COVID-19
- vi. enables Her Majesty's Treasury to make directions that give Her Majesty's Revenue and Customs responsibility for new functions necessary to deliver the government's response to COVID-19, for example in respect of paying and managing grants to businesses in accordance with the Coronavirus Job Retention Scheme and the Self Employed Income Support Scheme
- vii. provides for Business Improvement Districts (BIDs) in England and Northern Ireland due to ballot before the end of this year to continue their arrangements until 31 March 2021, allowing businesses to focus on recovery from economic shock before deciding whether to participate in successor arrangements
- viii. enables the governments of the UK to require industry to provide information about food supplies, if an industry partner does not co-operate with our current voluntary information-sharing arrangements during a period of potential food supply disruption
- ix. provides tenants in England and Wales with a breathing space from new eviction action, by requiring landlords to provide them

with three months' notice of their intention to seek possession for any reason

- x. protects businesses in England, Wales and Northern Ireland for three months from forfeiture of commercial leases due to non-payment of rent, recognising business income is likely to be impacted by COVID-19.

# Coronavirus Act – non-devolved provisions in Part 1

## Temporary and permanent provisions

Section	Provision	Status	Recommendation
1	Meaning of 'coronavirus' and related terminology	Came into force on Royal Assent	N/A
2 <i>Sch 1</i>	Emergency registration of nurses and other health and care professionals	Came into force on Royal Assent	<p>These powers are needed to mitigate the ongoing risk of planned and unexpected future workforce demands as a result of Covid-19.</p> <p>This could include:</p> <ul style="list-style-type: none"> <li>• Supporting NHS Trusts to clear the backlog created by the suspension of non-urgent services;</li> <li>• Helping to deal with any future surges in Covid-19 infections / hospitalisations;</li> <li>• Providing ongoing support for 111 and Track and Trace; and</li> <li>• Supporting the delivery of future vaccination programmes.</li> </ul>
6 <i>Sch 5</i>	Emergency registration of social workers: England and Wales	Came into force on Royal Assent	<p>We are seeing increased demand on children' social care as referrals increase in the autumn due to new or unmet need that has occurred because of the coronavirus response. We need provision to maintain an emergency register and so have enough social workers to meet this demand. We will not use the powers longer than is necessary (ie, we will close the temporary register when it is no longer</p>

Section	Provision	Status	Recommendation
			needed) but do not need to sunset the provisions before the current sunset date in order to do that.
8 <i>Sch 7</i>	Emergency volunteering leave	Not yet in force	The provisions for Emergency volunteering leave (8) and Compensation for emergency volunteers (9) were designed to give skilled volunteers protected employment status, and receive financial compensation, whilst volunteering their time to support health and social care services during the COVID-19 outbreak, if necessary to boost volunteer supply.
9	Compensation for emergency volunteers	Not yet in force	<p>The provisions have not been brought into force, as during the first peak we did not see evidence that triggering the system was needed to boost the supply of specialist volunteers, and other interventions, such as the Coronavirus Job Retention Scheme and the closure of certain industries, have supported volunteer supply.</p> <p>Whilst the provisions were not needed during the first peak, the situation going into winter and a potential second wave may be different. NHSE/I are working with NHS trusts over summer to plan for winter and how best to maintain volunteering capacity, including supporting existing volunteers to be reinstated if safe to do so, following individual risk assessments. We are continuing to monitor the need for skilled volunteers within the health and social care sector and identify any</p>

Section	Provision	Status	Recommendation
			<p>potential barriers to participation. Whilst we do not currently predict that these provisions will be required, we cannot be sure that the emergency provisions will not be needed, in particular if the reasonable worst-case scenario was to occur. We therefore do not recommend sunsetting these provisions early.</p>
10 and Sch 8	Temporary modification of mental health and mental capacity legislation	Not yet in force	<p>The emergency changes to the Mental Health Act, as they apply to England, have not yet been required and will only be switched on if the mental health sector is experiencing unprecedented resource constraints, which result in patients' safety being put at significant risk. We continue to monitor the situation closely and we have established a clear route through which NHS Trusts and Medical Directors can make it known that the powers are needed.</p> <p>While it has so far not been deemed necessary to switch on the emergency powers, it is possible that this is down to an initial drop in mental health hospital admissions and detentions under the MHA, combined with an increase in discharges, as providers have looked to reduce the risk of infection by Covid-19 in hospitals. This is potentially set to change as acute Mental Health service demand is rising quickly, and people who do present are doing so with higher levels of acuity than usual. The possible rise in admissions to inpatient facilities, coupled with the possibility of a future outbreak of the scale set out in</p>

Section	Provision	Status	Recommendation
			scenarios 2 and 3 (i.e. significant winter resurgence or pre-winter peak combined with a significant winter resurgence, respectively), may mean that the emergency powers are critical to ensuring the continued delivery of safe, timely care.
11	Indemnity for health service activity: England and Wales	Came into force on Royal Assent	<b>PERMANENT ANYWAY</b>
14	NHS Continuing Healthcare assessments: England	Came into force on Royal Assent	This provision can be suspended using the power in section 88 but we are working through the detailed consequences of doing this.
15 <i>Sch 12</i>	Local authority care and support	Section 15 (in relation to England) and Part 1 of Schedule 12 (powers and duties of local authorities in England came into force on 31 March 2020	Currently no local authorities are operating under easements. Work undertaken by our CSWs shows that LAs used the powers responsibly and complied with guidance, so there is no rush to turn off powers. Sentiments gathered from PSWs and ADASS suggest that the option to use easements in the event of a second wave is incredibly helpful. Suspending the powers would give a powerful signal of Government confidence that the ASC sector is returning to a “new normal” and so should form part of a wider government assessment of risk to the sector. We therefore recommend waiting until we are confident of the position before turning them off, rather than turning them off quickly and then

Section	Provision	Status	Recommendation
			turning them back on again in the event of a second wave.
18 <i>Sch 13</i>	Registration of deaths and still-births etc	Came into force on 26 March 2020	<p>The easements relating to the signing of a Medical Certificate Cause of Death have been invaluable, allowing more flexibility in health services, and reducing any extra burden placed on coronial services; by enabling any doctor who has knowledge of the case to certify the death without the need to report the death to the coroner. However outside of the emergency period we should return to the previous regime, in that an MCCD should be signed by the doctor who had attended the deceased during their last illness.</p> <p>The easements relating to the registration process; allowing a funeral director to provide the information for the registration, the ability to register a death by another means other than face to face with a registrar and the ability to transfer documents electronically have been really effective in streamlining the death registration process, reducing the distress to the bereaved and improving the speed of the process. It is desirable for these provisions to be made permanent as they modernise the death registration process, are of significant benefit to the public and support plans to reform civil registration processes, increasing remote and digital offerings.</p>
19	Confirmatory medical certificate not	Came into force on 26 March 2020	We are keeping under review whether section 19 and/or 30 can safely be closed down before the Act itself is

Section	Provision	Status	Recommendation
	required for cremations: England and Wales		<p>sunsetting in March 2022, but cannot provide a definitive steer at this stage.</p> <p>The section 19 provisions are closely tied with easements on death certification and we are working closely with relevant OGDs to determine when the balance is right to renew the safeguards this presents whilst not unreasonably burdening the sector. We are also considering carefully the risk that these easements might need to be reintroduced if infections and deaths significantly rise and the challenges that would present compared to maintaining them throughout.</p>
22	Appointment of temporary Judicial Commissioners	Came into force on Royal Assent	The regulations were made on 26 March 2020 to bring these provisions into effect. The regulations contain their own sunset clause of 12 months. At this moment we do foresee extending them further but equally there are no plans to sunset them early as the Investigatory Powers Commissioner (on whose request the original regulations were made as is required by the Coronavirus Act) wishes for them to remain in force into the winter in case of a second wave as the Judicial Commissioners are part of an at risk group (being all but one over 70).
23	Time limits in relation to urgent warrants etc under Investigatory Powers Act	Came into force on Royal Assent	The Coronavirus Act established a regulation-making power so that biometrics held for national security purposes can be retained for up to an additional six months beyond normal statutory retention deadlines.
24	Extension of time limits for retention of fingerprints and DNA profiles	Came into force on Royal Assent	



Section	Provision	Status	Recommendation
			<p>Regulations may only be made in response to the effects that coronavirus is having, or is likely to have, on the capacity of chief officers of police to consider whether biometrics need to be retained in the interests of national security. The power may be exercised on more than one occasion but not so as to extend the period for which biometrics may be retained by more than 12 months in total. The Government laid the Coronavirus (Retention of Fingerprints and DNA Profiles in the Interests of National Security) Regulations 2020 on 1 April and they came into force on 2 April. These extend the statutory retention deadlines for biometrics within scope by six months.</p> <p>We want to maintain the provisions to allow biometrics to be retained for up to 12 months. We cannot stop the current Regulations expiring on 1 October. However, new Regulations were laid on 10 September which are due to come into force on 1 October and last until 24 March 2021. The police indicated to us that there was an urgent operational need for a further extension to be made. They have experienced the following problems, many of which are still causing delays:</p> <ul style="list-style-type: none"> <li>• Staff shortages due to the need to shield</li> <li>• Administrative delays including those relating to remote IT and partner agencies</li> </ul>

Section	Provision	Status	Recommendation
			<ul style="list-style-type: none"> <li>Biometrics Commissioner's inability to review biometric retention cases due to lack of remote access</li> </ul> <p>The police asserted that the only way to guarantee that biometrics are not lost was to extend the retention period.</p>
25	Power to require information relating to food supply chains	Not yet in force	<p>Defra has agreed a Data Sharing Protocol with food retailers, and works closely with other members of the food supply chain, to gather information, on a voluntary basis, during a food supply disruption. These food supply provisions are intended to back up these arrangements and will not be activated unless there is a food supply disruption and industry stop complying with information requests voluntarily.</p>
26	Authorities which may require information	Not yet in force	
27	Restrictions on use and disclosure of information	Not yet in force	
28 <i>Sch 15</i>	Enforcement of requirement to provide information	Not yet in force	
29	Meaning of 'food supply chain' and related expressions	Not yet in force	
30	Suspension of requirement to hold inquests with jury:	Came into force on Royal Assent	

Section	Provision	Status	Recommendation
	England and Wales		<p>sunsetting in March 2022, but cannot provide a definitive steer at this stage.</p> <p>We are keeping the section 30 provisions under review and will maintain dialogue with NI who have similar provisions.</p>
37 <i>Sch 16</i>	Temporary closure of educational institutions and childcare premises	Came into force on Royal Assent	<p>The power to issue closure directions and authorisations needs to be retained (for at least the full 2 year period specified in the Act) to support the Secretary of State for Education (SoSfE)'s ability to actively, quickly and effectively manage responses to coronavirus outbreaks, e.g. if there are further outbreaks or peaks in cases. The DfE view is that the s.37 temporary closure power needs to be retained to support the SoSfE's ability to actively and effectively manage our response to Covid-19 outbreaks as he does not have any effective, fast acting alternative legal powers whereby he can direct the temporary closure of educational and/or training institutions, and/or registered childcare premises.</p>
38 <i>Sch 17</i>	Temporary continuity: education, training and childcare	Came into force on Royal Assent	
39	Statutory sick pay: funding of employers' liabilities	Came into force on Royal Assent	<p>As it is not yet known whether there will be further peaks/outbreaks later in the year. The power needs to be retained to support the Secretary of State's ability to manage responses to coronavirus outbreaks.</p>
40	Statutory sick pay: power to disapply waiting period limitation	Came into force on Royal Assent	

Section	Provision	Status	Recommendation
41	Statutory sick pay: modification of regulation making powers	Came into force on Royal Assent	
45	NHS pension schemes: suspension of restrictions on return to work: England and Wales	Came into force on Royal Assent	<p>The NHS Pension Scheme does not generally place any restrictions on the amount that retired staff can earn if they return to work post-retirement.</p> <p>However, there are some restrictions:</p> <ul style="list-style-type: none"> <li>• Staff who return post-retirement must reduce their working commitments to less than 16 hour per week in the first month following retirement. Their pension payments are suspended if they breach this.</li> <li>• Staff who hold reserved rights to retire at 55 instead of 60 with an unreduced pension, will have their pension abated if upon returning to work before age 60 their pay plus pension exceeds their pre-retirement pay.</li> <li>• Staff who draw down a portion of their 2008 or 2015 pension scheme benefits whilst continuing to work, are required to reduce their pensionable pay by at least 10%. This is typically achieved by reducing hours.</li> </ul> <p>Section 45 suspends these restrictions in the NHS Pension Scheme in England and Wales. The measures allow skilled and experienced staff who have</p>

Section	Provision	Status	Recommendation
			<p>recently retired from the NHS to return to work, and they also allow retired staff who have already returned to work to increase their commitments if required, without having their pension benefits suspended.</p> <p>The current intention is that the restrictions are suspended for the duration of the crisis plus an additional 6-month period to allow staff and employers time to readjust to the rules being re-activated.</p> <p>This provides vital capacity to the NHS workforce, and the pension rule suspensions should be left in place for as long as the NHS needs increased capacity.</p>
50 <i>Sch 20</i>	Power to suspend port operations	Came into force on Royal Assent	<p>The purpose of these powers is to ensure that we can continue to protect the border in the event that, due to coronavirus, there are insufficient officers to maintain adequate border security. Specifically, the Schedule provides powers for the Secretary of State to direct a port operator in the UK (i.e. a person concerned in the management of any port, for example airport, ferry port, international rail terminal) to suspend relevant operations. The Schedule also provides the Secretary of State a power to issue consequential directions to other parties if the Secretary of State considers it appropriate in connection with the primary direction.</p>

Section	Provision	Status	Recommendation
			Protecting the border is a fundamental duty for government. While the threat of coronavirus remains, this power is needed to ensure that we can respond proportionately, dynamically, and in a timely fashion where there is a real and significant risk to border security.
51 <i>Sch 21</i>	Powers relating to potentially infectious persons	Came into force on Royal Assent	This power is a useful tool to use when other options have failed to ensure compliance. It could be very useful if a more stringent border regime were introduced as it applies without exemption.
52 <i>Sch 22</i>	Powers to issue directions relating to events, gatherings and premises	Came into force on Royal Assent	Although DCMS have not yet used these powers, there is a strong agreement that they should remain as the situation is still evolving and could be used by any government department should it be needed.
53 <i>Sch 23</i>	Expansion of availability of live links in criminal proceedings	Came into force on Royal Assent	These provisions need to remain in force until the current sunset clause. The provisions allow the courts to deal promptly and safely with proceedings, avoiding unnecessary social contact and travel. Furthermore, they allow key services within the justice system to continue to be delivered and in a way which upholds the principles of open justice.
54 <i>Sch 24</i>	Expansion of availability of live links in other criminal hearings	Came into force on Royal Assent	
55	Public participation in	Came into force on Royal Assent	

Section	Provision	Status	Recommendation
<i>Sch 25</i>	proceedings conducted by video or audio		
56 <i>Sch 26</i>	Live links in magistrates' court appeals against requirements or restrictions imposed on a potentially infectious person	Came into force on Royal Assent	
58 <i>Sch 28</i>	Powers in relation to transportation, storage and disposal of dead bodies etc	Came into force on Royal Assent	<p>Section 58 provisions were commenced upon Royal Assent. The power to require information from the death management sector, as provided in Part 1 of Section 58, has equipped local authorities with a useful tool to enforce where there is a reluctance to share information pertinent to operational planning for an effective death management system.</p> <p>Part 2 powers of direction allow for local and national authorities to direct persons to assist with death management processes if required. Part 2 powers are only available however once the MHCLG Secretary of State makes a designation. The designation can only be made if the death management system in an area is, or is close to becoming, overwhelmed. This is an in-built safeguard for these powers that mean that they will only be used if needed to allow the death management</p>

Section	Provision	Status	Recommendation
			<p>system to operate effectively so that the deceased can be cared for with dignity and respect.</p> <p>They are required in the Act until the risk of a further peak is mitigated. It would be premature to sunset them early whilst there remains a risks of subsequent waves overwhelming local death management systems, The justification for introducing these provisions in March is still valid - we must have back up contingency measures that can be used by local or national authorities to assist the system if it is in danger of being overwhelmed. The powers are proportionate, as demonstrated by the last six months where the more extraordinary powers were not 'switched on' as they were not required.</p> <p>The designation criteria is a proportionate constraint to ensure the powers of direction can and are only used when they are needed. However, the option of 'switching on' the powers of direction if they are needed to support the death management system remains an important contingency option as we head into winter where the risk of concurrency from winter pressures of a severe flu session or cold weather increases the risk of systems being overwhelmed and the power needed.</p>
59	Elections and referendums	Came into force on Royal Assent	WILL EXPIRE ANYWAY



Section	Provision	Status	Recommendation
	due to be held in England in period after 15 March 2020		
60	Postponement of elections due to be held on 7 May 2020	Came into force on Royal Assent	
61	Power to postpone certain other elections and referendums	Came into force on Royal Assent	
62	Power to postpone a recall petition under the Recall of MPs Act 2015	Came into force on Royal Assent	
63	Power to make supplementary etc provision	Came into force on Royal Assent	
71	Signatures of Treasury Commissioners	Came into force on Royal Assent	<p>Section 71 has been used to significant benefit during the Covid response and should sunset according to the current date to allow for continued flexibility to ensure HMT Commissioners are able to discharge their duties should the flexibility be required.</p> <p>To date, the directions that have been made conferring functions on HMRC have been made pursuant to sections 71 and 76 of the Coronavirus Act 2020.</p>

Section	Provision	Status	Recommendation
			<p>This includes the directions made by the Chancellor in relation to Coronavirus Job Retention Scheme, Self-Employed Income Support Scheme and the Eat Out to Help Out Scheme. Take-up of SEISS and CJRS can be found publicly available here: <a href="https://www.gov.uk/government/collecti- ons/hmrc-coronavirus-covid-19- statistics">https://www.gov.uk/government/collecti- ons/hmrc-coronavirus-covid-19- statistics</a></p>
72	Power under section 143 of the Social Security Administration Act 1992	Came into force on Royal Assent	Sections 72, 73 and 74 of the Coronavirus Act 2020 are powers to make changes within the National Insurance systems to support the UK's response to the challenges posed by the pandemic by reducing the amount of National; Insurance contributions that employers will pay if required. The provisions remove some of the processes required to make these changes (rather than introducing something totally new) in order that the Government is able to introduce changes quickly should the economic circumstances require.
73	Power under the section 145 of the Social Security Administration Act 1992	Came into force on Royal Assent	To date they have not been used/needed, however they provide options for further support if the government considers it necessary to support the economic recovery from Covid19.
74	Power under section 5 of the National Insurance Contributions Act 2015	Came into force on Royal Assent	
75	Disapplication of limit under section 8 of the Industrial	Came into force on Royal Assent	<b>PERMANENT ANYWAY</b>

Section	Provision	Status	Recommendation
	Development Act 1982		
76	HMRC functions	Came into force on Royal Assent	<b>PERMANENT ANYWAY</b>
77	Up-rating of working tax credit etc	Came into force on Royal Assent	<p>Section 77 of the Coronavirus Act provides for a temporary increase to the basic element of Working Tax Credit in 2020/21.</p> <p>Subsection 2 provides for this increase to be disregarded by Treasury Ministers when they conduct their annual review in Autumn 2020 to determine whether benefit rates have maintained their value in relation to prices growth in the UK.</p> <p>Subsection 3 makes corresponding provision in relation to the temporary increase in the Universal Credit standard Allowance, provided for in separate legislation, in respect of the Secretary of State for Work and Pensions review of the rates of benefits and pensions.</p>
78	Local authority meetings	Came into force on Royal Assent	<p>We continue to recommend that where meetings can take place digitally, without the need for face-to-face contact, they should do so. The regulations do not preclude physical or hybrid meetings. Where council buildings need to be used for physical meetings, these meetings must be managed within the social distancing guidance and principles.</p>

Section	Provision	Status	Recommendation
79	Extension of Business Improvement Districts (BID) arrangements: England	Came into force on Royal Assent	<p>Section 79 of the Coronavirus Act 2020 allows Business Improvement Districts (BIDs) that were due to ballot before 31 December 2020 to extend their arrangements until 31 March 2021 and delay their ballot. This allows BIDs to exceed the previous maximum term of no more than five years.</p> <p>Subsection 1 sets out the dates between which the clauses have legal effect. the provisions only apply in relation to BID arrangements due to expire before 31 December 2020 (and has the effect of extending existing arrangements until 31 March 2021).</p> <p>For BIDs impacted by the legislation, their arrangements would be extended until 31 March 2021, creating a new chargeable period for the period that the BID arrangements were extended.</p>
81 <i>Sch 29</i>	Residential tenancies in England and Wales: protection from eviction	Came into force on Royal Assent	<p>The measures in Clause 81 and Schedule 29 protect tenants by delaying when landlords can progress evictions. They came into force on the day after the Bill was introduced, as they were deemed a necessary part of the Government's immediate response to Coronavirus.</p> <p>They were in force for an initial period of up to 30 September, and have now been extended until 31 March 2021, reflecting the ongoing need to provide tenants with enhanced protections in response to the pandemic.</p>

Section	Provision	Status	Recommendation
			<p>The Government is keeping these measures under review and will consider in advance of 31 March 2021 whether extension beyond this point is necessary and justified.</p>
82	<p>Business tenancies in England and Wales: protection from forfeiture etc</p>	<p>Came into force on Royal Assent</p>	<p>Section 82 of the Coronavirus Act 2020 makes provision for a moratorium on the ability of landlords of commercial properties to exercise any right of forfeiture that they may have due to the non-payment of rent by tenants.</p> <p>This was originally in place until 30 June. On Friday 19 June an SI was laid that extended the measure until 30 September. We are planning to lay another SI w/c 14 September to extend the measure until 31 December, subject to write round.</p>









CCS0920231018

978-1-5286-2152-6