POLICY NOTE

THE CORONAVIRUS ACT 2020 (SUSPENSION: DISPOSAL OF BODIES) (SCOTLAND) REGULATIONS 2021

SSI 2021/250

The above instrument was made in exercise of the powers conferred on the Scottish Minsters by section 88(1) of the Coronavirus Act 2020.

Purpose of the instrument.
To suspend the operation of Parts 2 and 3 of Schedule 28 (transportation, storage and disposal of dead bodies etc) and, so far as it applies to those Parts, section 58 (powers in relation to transportation, storage and disposal of dead bodies etc) of the Coronavirus Act 2020 ("the Act") insofar as those provisions apply in Scotland.

Policy Objectives

The suspension means that these provisions no longer have effect in Scotland but are capable of being revived by regulations made under section 88(3) of the Act.

Legislative background

The Coronavirus Act received Royal Assent on 25th March 2020. Section 58 of the Act introduces schedule 28 which contains contains powers concerning the transportation, storage and disposal of dead bodies. Part 1 of the schedule contains powers for local authorities and the Scottish Ministers to require information about capacity to manage bodies locally and nationally. Part 2 of the schedule confers powers on the Scottish Ministers and local authorities regarding the disposal of bodies where there is insufficient capacity in a local authority area. Part 3 of the schedule contains powers that allow the Scottihs Minister to give local authorities directions where they fail to exercise functions in connection with the transport, storage or disposal of dead bodies.

The powers in Parts 2 and 3 of schedule 28 have not been used since they came into force however until now, the provisions were judged to continue to be necessary in order to ensure that the powers could be used in future if needed and in particular to ensure the ability to respond to particular pressures in a specific local authority area should these emerge at any point.

It is now considered that the powers in Parts 2 and 3 of schedule 28 are no longer necessary and should be suspended. However, these provisions could be brought back into effect by reglations made under section 88(3) of the 2020 Act, should the response to the virus require this. Part 1 of schedule 28 remains in force to allow the necessary information to be gathered, if necessary, to inform a decision about whether to revive Parts 2 and 3.

Consultation

The Scottish Government has consulted with the Society of Local Authority Chief Executives (SOLACE) and the National Additional Death Strategy Group. Both are content for the powers to be suspended. There has been no public consultation in relation to this instrument.

Impact Assessments

No impact assessments have been carried out for this instrument.

Financial Effects

The Cabinet Secretary for Covid Recovery confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Directorate for Organisational Readiness

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