POLICY NOTE

THE CORONAVIRUS (RECOVERY AND REFORM) (SCOTLAND) ACT 2022 (SAVING PROVISIONS) REGULATIONS 2025

SSI 2025/101

The above instrument was made in exercise of the powers conferred by section 58(1) of the Coronavirus (Recovery and Reform) (Scotland) Act 2022. The instrument is subject to negative procedure.

Summary Box

These Regulations make saving provision in connection with the expiry of the extensions to criminal procedure time limits in solemn proceedings contained in paragraphs 20 and 22 of the schedule of the Coronavirus (Scotland) Act 2022. They preserve those time limits where the accused first appeared on petition (in relation to the time limits at paragraph 20) or where full committal takes place (in relation to the time limits at paragraph 22) before the end of 30 November 2025.

Policy Objectives

The policy objective is to make saving provision to aid the transition from the current extended time-limits to the previous pre-pandemic time-limits with the aim of effecting as smooth a transition as possible for the processing of criminal cases.

The Coronavirus (Recovery and Reform) (S) Act 2022 ("the 2022 Act") made provision to extend certain criminal procedure time limits contained in the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act") to assist in managing the backlog of cases that built up during the coronavirus pandemic.

The majority of these time limits have now been expired. However, two time limit extension provisions which apply where a case is tried on indictment remain in effect. These are:

- The time limits within which an indictment must be served, a preliminary hearing or first diet must start and the trial must commence where an accused has been remanded in custody prior to trial. The most important of these (commencement of trial) has been extended from 140 days to 320 days, with commensurate extensions for the others; and
- The time limits within which a preliminary hearing or first diet must start and within which the trial must commence following an accused person first appearing on petition. These have been extended from 11 months and 12 months to 17 months and 18 months.

These time limit extension will expire at the end of 30 November 2025. In order to enable as smooth a transition as possible, the Order makes provision to preserve the time limit extension for any case where the accused first appeared on petition, or where full committal took place, before the end of 30 November 2025.

This is with the intent to provide more time for those involved in the operation of criminal proceedings to be ready for the pre-pandemic time limits to apply once again and avoid a situation where a large number of cases all time out simultaneously on 1 December 2025. It is

intended to ensure that there is as smooth a transition as possible back to pre-pandemic time limits by avoiding a situation where a large number of cases all reach their time limit at the end of 30 November 2025. It implements the policy recommendation made by the Criminal Justice Committee in their Stage 1 report on the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill in respect of effecting as smooth a transition as possible[1].

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Coronavirus (Recovery and Reform) (Scotland) Act 2022 (Saving Provisions) Regulations 2025 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Impact Assessments

The provisions to which the saving provisions contained in this instrument apply all form part of the 2022 Act. The following impact assessments were carried out for the 2022 Act. They have been reviewed and, where necessary, updated to reflect the contents of this instrument:

- Coronavirus (Recovery and Reform) (Scotland) Bill: child rights and wellbeing impact assessment[2]
- Coronavirus (Recovery and Reform) (Scotland) Bill: equalities impact assessment[3]
- Coronavirus (Recovery and Reform) (Scotland) Bill: fairer Scotland duty impact assessment [4]
- Coronavirus (Recovery and Reform) (Scotland) Bill: island communities impact assessment[5]

Section 17(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024[6] came into force on 16 July 2024. This requires the Scottish Ministers to prepare and publish a child rights and wellbeing impact assessment ("CRWIA") for any Scottish statutory instrument that they make, other than one which brings a provision of an Act of the Scottish Parliament or an Act of Parliament into force.

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[1] See pages 32-33 of: https://digitalpublications.parliament.scot/Committees/Report/CJ/2025/3/11/547bd929-6232-4c9f-929b-c8f9d3a99051#Introduction

[2] https://www.gov.scot/publications/coronavirus-recovery-reform-scotland-bill-child-rights-wellbeing-impact-assessment-crwia/

[3] https://www.gov.scot/publications/coronavirus-recovery-reform-scotland-bill-equalities-impact-assessment-eqia/

[4] https://www.gov.scot/publications/coronavirus-recovery-reform-scotland-bill-fairer-scotland-duty-impact-assessment-fsdia/

[5] https://www.gov.scot/publications/coronavirus-recovery-reform-scotland-bill-island-communities-impact-assessment-icia/

[6] https://www.legislation.gov.uk/asp/2024/1/pdfs/asp_20240001_en.pdf

The CRWIA for this instrument complements the CRWIA that was published for the 2022 Act. It has been reviewed and signed off by the Cabinet Secretary for Justice and Home Affairs, as confirmed by the Statement of Compatibility.

This can be found here:

- Coronavirus (COVID-19) legislation[7]

Financial Effects
The provisions being expired to which the saving provisions in this instrument relate form part of the 2022 Act. A Business and Regulatory Impact Assessment was carried out for the Act, and can be found here:

- Coronavirus (Recovery and Reform) (Scotland) Bill: business and regulatory impact assessment[8]

The Scottish Government has reviewed the Business and Regulatory Impact Assessment and is satisfied that it reflects the impact of the instrument.

Scottish Government
Justice Directorate

1 April 2025.

[7] https://www.gov.scot/collections/coronavirus-covid-19-legislation/
[8] https://www.gov.scot/publications/coronavirus-recovery-reform-scotland-bill-business-regulatory-impact-assessment-bria/