

CORONAVIRUS (SCOTLAND) (NO.2) ACT 2020

EXPLANATORY NOTES

DETAIL ABOUT PROVISIONS

Schedule 2: Operation of the justice system

Criminal proceedings: extension of time limits

77. Paragraph 1 of schedule 2 makes provision to extend certain statutory time limits contained in the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) relating to criminal proceedings.
78. Paragraph 1(2) amends section 145 of the 1995 Act which provides the court with a power to adjourn a summary case at first calling for inquiry into the case, or for any other cause it considers reasonable for such period as it considers appropriate. It removes subsection 145(3) which provides that, where the accused has been remanded on bail or ordained to appear, no single period of adjournment shall exceed 28 days. The effect of this is that the court can adjourn a hearing of such a case for such a period as the court considers appropriate, without this limitation.
79. Paragraph 1(3) amends section 145A of the 1995 Act, which provides the court with a power to adjourn a case at first calling in a summary case where the accused is not present, to allow the accused to appear in answer to the complaint, or time for inquiry into the case, or for any other cause the court considers reasonable. It removes section 145A(3) which provides that no single period of adjournment shall exceed 28 days. The effect of this is that the court can adjourn a hearing of such a case for such a period as the court considers appropriate, without this limitation.
80. Paragraph 1(4) amends section 200 of the 1995 Act, which provides the court with a power to adjourn a case where an accused person has been found to have committed an offence punishable by imprisonment to enable inquiry to be made into their physical or mental condition to assist in determining the most appropriate means of dealing with them.
81. Paragraph 1(4)(a) amends section 200(2) to remove the three week limit for which any single adjournment can be made. The effect of this is that the court can adjourn the case for such a period as the court thinks necessary to enable a medical examination and report to be made.
82. Paragraph 1(4)(b) amends section 200(3)(a) to remove the three week limit for which any single adjournment can be made in a case where the court is of the opinion, on the written or oral evidence of a medical practitioner, that the person appears to be suffering from a mental disorder and that the person ought to continue to be committed to hospital for the purpose of inquiry into their mental condition following the expiry of the period specified in an order for committal to hospital under section 200(2)(b). The effect of this is that the court can adjourn the case for such a further period as the court thinks necessary to enable a medical examination and report to be made.

*These notes relate to the Coronavirus (Scotland) (No.2) Act
2020 (asp 10) which received Royal Assent on 26 May 2020*

83. Paragraph 1(5) amends section 245J of the 1995 Act, which provides the court with a power to adjourn a case where an offender appears to have failed to comply with a requirement of a community payback order, drug testing and treatment order or restriction of liberty order for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with them, by substituting a new subsection (3), which provides that the court may adjourn a hearing under section 245J(1) for such period as it considers appropriate. This temporarily replaces the existing power to adjourn a case for 4 weeks at a time, or 8 weeks on cause shown.