

CORONAVIRUS (DISCRETIONARY COMPENSATION FOR SELF- ISOLATION) (SCOTLAND) ACT 2022

EXPLANATORY NOTES

THE ACT: SECTION BY SECTION

Section 1: Discretionary compensation for self-isolation

7. **Section 1** modifies section 56 and section 58 of the Public Health etc. (Scotland) Act 2008 (“the 2008 Act”).
8. **Section 1(2)(a)** of the Act has the effect of making section 56(1) of the 2008 Act subject to section 56(1A). Section 1(2)(b) of the Act provides that section 56 is to have effect as if a subsection (1A) were inserted after subsection (1). Subsection (1A) applies when a request is made to a person under section 56(1) to quarantine, be excluded from entering or remaining in a place, or refrain from certain activities, for a reason relating to coronavirus. Subsection (1A) ensures that in those cases the health board is not under an obligation to pay compensation to the person to whom the request is made. The health board may however choose to pay compensation.
9. **Section 1(3)(a)** of the Act has the effect of making section 58(2) of the 2008 Act subject to section 58(2A). Section 1(3)(b) of the Act provides that section 58 is to have effect as if a subsection (2A) were inserted after subsection (2). Subsection (2A) applies when a request is made to a person under section 56(1), or a person is subject to any of the types of orders specified in section 58(1)(a), for a reason relating to coronavirus. Subsection (2A) ensures that in those cases the health board is not under an obligation to pay compensation to a carer of the person subject to the order or to whom the request is made. The health board may however choose to pay compensation.

Section 2: Expiry of section 1

10. **Section 2(1)** provides that section 1 will expire on 31 October 2022. When section 1 expires, the provisions of sections 56 and 58 of the Public Health etc. (Scotland) Act 2008 will apply without modification.
11. **Section 2(2)** provides a power for the Scottish Ministers to make regulations making transitional, transitory or saving provision in connection with the expiry of section 1.

Section 3: Power to alter expiry date

12. **Section 3** gives the Scottish Ministers the power to change the date of expiry of section 1 by regulations.
13. **Section 3(1)** allows the Scottish Ministers to move expiry to an earlier date. Section 3(2) allows the Scottish Ministers to move expiry to a later date. Section 3(3) provides that the later date cannot be later than 6 months after the expiry date which applies at

These notes relate to the Coronavirus (Discretionary Compensation for Self-isolation) (Scotland) Act 2022 (asp 2) which received Royal Assent on 23 March 2022

the time the regulations are made – whether that is the date set out in the Act, or a date which has been set by a previous set of regulations made under the Act.

Section 4: Procedure for regulations under section 3

14. **Section 4** sets out the relevant Parliamentary procedures for regulations made under section 3.
15. **Section 4(1)** provides that regulations moving expiry to an earlier date are subject to the negative procedure in the Scottish Parliament. Subsection (2) provides that regulations moving expiry to a later date are subject to the affirmative procedure in the Scottish Parliament.
16. Subsection (3) places an obligation on the Scottish Ministers to consult each health board in Scotland, and any other parties that the Scottish Ministers think it is appropriate to consult, before they make regulations under section 3(1), or lay draft regulations under section 3(2).
17. When a draft of regulations to move expiry to a later date is laid before the Scottish Parliament, there is also a duty on the Scottish Ministers, under subsection (4), to lay before the Parliament a statement of their reasons why the regulations should be made.
18. Subsection (5) gives the Scottish Ministers the power to make urgent regulations moving expiry to a later date. If the Scottish Ministers consider that such regulations are required then they are not obliged to consult with health boards or other parties before making them, the affirmative procedure will not apply, and when the regulations are made they will be effective immediately. The regulations must be laid before the Scottish Parliament, along with a statement of the Scottish Ministers' reasons for making the regulations and for doing so urgently, without using the affirmative procedure. The regulations will cease to have effect 28 days after they are made, unless the Parliament approves them by resolution within that period.

Section 5: Coronavirus Act 2020: Expiry of paragraph 46 of schedule 21

19. By the time the Act comes into force, paragraph 46 of schedule 21 of the Coronavirus Act 2020 (which modifies sections 56 and 58 of the 2008 Act) may have expired. Section 5 provides that if and in so far as it has not already expired, it expires on the day on which the Act comes into force.
20. **Section 5(2)** provides a power for the Scottish Ministers to make regulations making transitional, transitory or saving provision in connection with the expiry of that paragraph.

Section 6: Commencement

21. **Section 6** sets out that the Act will come into force on the day after Royal Assent.