

2020 No. 201

SOCIAL CARE

**The Care Homes Emergency Intervention Orders (Coronavirus)
(Scotland) Regulations 2020**

Approved by the Scottish Parliament

Made - - - - at 5.22 p.m. on 2nd July 2020

Coming into force in accordance with regulation 1(1)

Laid before the Scottish Parliament 3rd July 2020

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 65B of the Public Services Reform (Scotland) Act 2010(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Care Homes Emergency Intervention Orders (Coronavirus) (Scotland) Regulations 2020 and come into force immediately after they are made.

(2) In these Regulations—

“the 2010 Act” means the Public Services Reform (Scotland) Act 2010.

Nominated officer

2.—(1) A nominated officer may authorise any person to perform such of that officer’s functions and to such extent as that officer may determine.

(2) Authorisation under this regulation to perform a function does not—

- (a) affect the nominated officer’s responsibility for the performance of the function, or
- (b) prevent that officer from performing the function.

(3) Where an officer of a local authority is appointed as a nominated officer, that officer is acting on behalf of the local authority.

(4) Where an officer of a Health Board is appointed as a nominated officer, that officer is acting on behalf of the Health Board.

Information held by public bodies etc.

3.—(1) The Scottish Ministers may, for the purpose of enabling or assisting them to decide whether to make an application to the court, or exercise the powers to intervene under section 65 A

(a) 2010 asp 8, as modified by paragraph 17 of schedule 1 of the Coronavirus (Scotland) (No. 2) Act 2020 asp 10.

of the 2010 Act(a), require any person named in paragraph (2) to provide them with any information which the Scottish Ministers think might be relevant to their decision.

(2) The persons who may be required to provide information under paragraph (1) are—

- (a) a local authority,
- (b) a Health Board,
- (c) Healthcare Improvement Scotland,
- (d) SCSWIS,
- (e) The chief constable of the Police Service of Scotland,
- (f) The Registrar of nurses and midwives,
- (g) The Scottish Social Services Council,
- (h) The Mental Welfare Commission for Scotland.

(3) The chief constable of the Police Service of Scotland must not provide information to the Scottish Ministers under paragraph (1) if the chief constable thinks that disclosing it to the Scottish Ministers would be contrary to the interests of the prevention, investigation or detection of crime.

(4) Subject to paragraph (3), a person who receives a request under paragraph (1) must comply with the request as soon as practicable after receiving it.

(5) Nothing in these Regulations—

- (a) limits any other power that exists under which a person named in paragraph (2) may be required to provide information or make records available,
- (b) permits or requires a person set out in paragraph (2) to disclose any information which would contravene any restriction on disclosure arising by virtue of an enactment or rule of law.

Expenditure

4.—(1) An order under section 65A of the 2010 Act has no effect on the obligations of the affected provider.

(2) Any expenditure incurred by a nominated officer or the Scottish Ministers in relation to intervention under section 65A of the 2010 Act may be recovered from the affected provider.

(3) The right to recover expenditure under paragraph (2) is unaffected where the affected provider's registration of the care home service at the accommodation is cancelled or otherwise comes to an end.

Protection from actions for damages

5. No right of action arises in respect of any loss, injury or damage incurred by a person due to the Scottish Ministers exercising (or failing to exercise) their functions under section 65A of the 2010 Act.

JEANE FREEMAN
A member of the Scottish Government

St Andrew's House,
Edinburgh
At 5.22 p.m. on 2nd July 2020

(a) 2010 asp 8, as modified by paragraph 17 of schedule 1 of the Coronavirus (Scotland) (No. 2) Act 2020 asp 10.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with emergency intervention orders under section 65A of the Public Services Reform (Scotland) Act 2010.

Regulation 2 makes provision in regard to the nominated officer.

Regulation 3 makes provision in regard to information sharing.

Regulation 4 sets out that an emergency intervention order does not affect the obligations of the provider of the care home service and allows the nominated officer and Scottish Ministers to recover any expenditure incurred by them from the provider.

Regulation 5 sets out limitations on actions for damages.

A Data Protection Impact Assessment has been prepared and placed in the Directorate for Community Health and Social Care, St Andrew's House, Edinburgh, EH1 3DG.

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