
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations suspend the operation of paragraph 11(2) and (3) of schedule 3 of the Coronavirus (Scotland) Act 2020. Those provisions concern the care of incapacitated adults.

Paragraph 11(2) of schedule 3 modified section 58A of the Criminal Procedure (Scotland) Act 1995. Paragraph 11(2) had the effect of ‘stopping the clock’ on the duration of guardianship orders with a specified lifespan. On suspension of paragraph 11(2), the period for which the guardianship order was in force will be resumed.

Paragraph 11(3)(a) deals with section 47 certificates which authorise certain medical and other treatment for incapacitated adults for a limited period of time under the Adults with Incapacity (Scotland) 2000 Act (“the 2000 Act”). Subparagraph (3)(a) had the effect of ‘stopping the clock running’ on the period of time the authority is granted for in the certificate. On suspension of paragraph 11(3)(a), the period of authority granted under the section 47 certificate will be resumed.

Paragraph 11(3)(b) modified section 58 of the 2000 Act. Section 58 concerns the disposal of an application for guardianship. If the guardianship order is for a limited time then paragraph 11(3)(b) will have had the effect of ‘stopping the clock running’ on the period of time the guardian has been appointed for. On suspension of paragraph 11(3)(b), the period the guardian was appointed for will be resumed.

Paragraph 11(3)(c) modifies section 60 of the 2000 Act. Section 60 pertains to the renewal of guardianship orders by a sheriff. Subparagraph (3)(c) had the effect of ‘stopping the clock running’ on the period of renewal of the guardian’s appointment whilst the sub-paragraph was in force. On suspension of paragraph 11(3)(c), the renewal period the sheriff granted in the order will be resumed.