

## POLICY NOTE

### **The Local Electoral Administration and Registration Services (Scotland) Act 2006 (Commencement No. 7) Order 2022**

#### **SSI 2022/266 (C. 13)**

The above instrument was made in exercise of the powers conferred by sections 61(2)(a) and 63(2) of the Local Electoral Administration and Registration Services (Scotland) Act 2006. The instrument is laid in the Scottish Parliament in accordance with section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010.

#### **Summary Box**

Remote still birth and death registration is currently in place on a temporary basis as a consequence of schedule 13 of the UK Coronavirus Act 2020<sup>1</sup>. The provisions in the 2020 Act are due to expire on 24 September 2022. Sections 25 to 27 of the Coronavirus (Recovery and Reform) (Scotland) Act 2022<sup>2</sup> make provision which enables remote birth (both live birth and still birth) and death registration to be an option across Scotland on a permanent basis from 24 September 2022. As part of the work to enable remote birth and death registration from 24 September 2022, some provisions of the Local Electoral Administration and Registration Services (Scotland) Act 2006 need to be commenced. This Commencement Order commences the relevant provisions.

#### **Policy Objectives**

Remote still birth and death registration is currently in place on a temporary basis as a consequence of schedule 13 of the UK Coronavirus Act 2020. This enables the submission of the particulars of a still birth or a death by the informant remotely from the registration office.

The provisions in the 2020 Act are due to expire on 24 September 2022. Sections 25 to 27 of the Coronavirus (Recovery and Reform) (Scotland) Act 2022 (“the 2022 Act”) make provision which enables remote birth (both live birth and still birth) and death registration to be an option across Scotland on a permanent basis from 24 September 2022.

Remote birth and death registration will be enabled on a permanent basis if the district registrar issues a direction enabling it in their local authority area or if the Registrar General of Births, Deaths and Marriages issues an all-Scotland direction. The 2022 Act makes it clear that in-person birth and death registration must remain available across Scotland.

A person who provides information so that a birth or death can be registered is known as “the informant”

As part of the work to enable remote birth and death registration from 24 September 2022, some provisions of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (“the 2006 Act”) which amend the Registration of Births, Deaths and Marriages

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<sup>1</sup> [Coronavirus Act 2020 \(legislation.gov.uk\)](https://legislation.gov.uk/uk/2020/11)

<sup>2</sup> [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(legislation.gov.uk\)](https://legislation.gov.uk/uk/2022/11)

(Scotland) Act 1965 (“the 1965 Act”) need to be commenced. In summary, those provisions of the 2006 Act remove or amend provisions in the 1965 Act which are based on registration having to take place in person, in the presence of the registrar.

This Order commences the following provisions of the 2006 Act in relation to birth registration.

- Section 39(3)(a)(i) to remove the current provision in section 14(1) of the 1965 Act that the informant must “attend personally at the registration office and give to the registrar information of the particulars required to be registered concerning the birth and sign the register in the presence of the registrar.” This commencement amends this provision of the 1965 Act so it reads: “give to the district registrar for a registration district information of the prescribed particulars concerning the birth.”
- Section 39(3)(a)(ii) to remove “and the signing of the register” in the proviso in section 14(1) of the 1965 Act.
- Section 39(3)(b) to commence section 14(1A)(b) of the 1965 Act. That provision is immediately substituted with effect from 24 September 2022 by provision in section 25 of the 2022 Act which enables remote registration.
- Section 39(6) insofar as it commences section 16B of the 1965 Act on registration of births. Section 39(6) also inserts section 16A of the 1965 Act, in connection with the provision of birth particulars by each Health Board to the Registrar General. Section 16A is not being brought into force by this Order.

Section 16A of the 1965 Act (and 25A in relation to the registration of deaths, which has also not been commenced) envisages the Registrar General taking a more centralised role in relation to birth (and death) registration than is the case in practice at the moment. The Registrar General would not rule out going down this route in future but would need to discuss and work closely with health boards and with local authority district registrars. In addition, changes to the IT operated by National Records of Scotland (NRS) would be needed. It may be appropriate to consider potential changes in this area when NRS’ IT has to be replaced in the future when the current systems reach the end of their lives.

This Order commences the following provisions of the 2006 Act in relation to death registration:

- Section 42(3)(a)(i) to remove in section 23(1) of the 1965 Act the words “to attend personally at the registration office and give to the registrar”.
- Section 42(3)(a)(ii) to make a minor consequential amendment to the 1965 Act.
- Section 42(3)(b) to commence section 23(1A)(b) of the 1965 Act, on remote submission of the death registration form. That provision is immediately substituted with effect from 24 September 2022 by provision in section 27 of the 2022 Act which enables remote registration of particulars.

## Consultation

The Scottish Government held a 12-week public consultation on the Bill which led to the 2022 Act between 17 August and 9 November 2021<sup>3</sup>. This consultation included proposals in relation to the remote registration of deaths, still births and live births.

## Impact Assessments

For the introduction of the Bill, which included consideration of birth and death registration, a number of Impact Assessments were published:

- A Business and Regulatory Impact Assessment<sup>4</sup>.
- A Child Rights and Wellbeing Impact Assessment<sup>5</sup>.
- An Equalities Impact Assessment<sup>6</sup>.
- A Fairer Scotland Duty Impact Assessment<sup>7</sup>.
- An Island Communities Impact Assessment<sup>8</sup>.

## Financial Effects

No significant costs are expected to arise as a consequence of this Order. The Financial Memorandum<sup>9</sup> prepared for the Bill which led to the 2022 Act noted that the introduction of remote birth and death registration has minimal cost implications.

## Scottish Government Justice Directorate

September 2022

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<sup>3</sup> The consultation is at [Covid recovery: a consultation on public health, public services and justice system reforms - Scottish Government - Citizen Space](#) Topic P16 covered the remote registration of deaths and still births and topic P17 covered the remote registration of live births

<sup>4</sup> [Coronavirus \(Recovery and Reform\) \(Scotland\) Bill: business and regulatory impact assessment - gov.scot \(www.gov.scot\)](#)

<sup>5</sup> [Coronavirus \(Recovery and Reform\) \(Scotland\) Bill: child rights and wellbeing impact assessment - gov.scot \(www.gov.scot\)](#)

<sup>6</sup> [Coronavirus \(Recovery and Reform\) \(Scotland\) Bill: equalities impact assessment - gov.scot \(www.gov.scot\)](#)

<sup>7</sup> [Coronavirus \(Recovery and Reform\) \(Scotland\) Bill: fairer Scotland duty impact assessment - gov.scot \(www.gov.scot\)](#)

<sup>8</sup> [Coronavirus \(Recovery and Reform\) \(Scotland\) Bill: island communities impact assessment - gov.scot \(www.gov.scot\)](#)

<sup>9</sup> [Financial Memorandum \(parliament.scot\)](#) See paragraphs 85 to 99.