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COVID-19—a legislation summary

A briefing paper from ARC Scotland and the Scottish Transitions Forum

The Coronavirus Act (CVA) 2020 creates these key actions relevant to transitions.

- **Increases availability of social workers and healthcare staff**, by allowing students who are almost qualified to join the workforce and asking retired staff to return. (*Part 1 of the Act: S2-9*)
- **Reduces the administrative burden on frontline staff** to make it easier for them to focus on direct care. (*Part 1: S10-17. Some of this legislation will only come into force if staff sickness severely limits social care*)
- **Enforces measures to slow down the virus**, e.g. social distancing. ([Health Protection \(Coronavirus\) \(Restrictions\) \(Scotland\) regulations 2020](#))
- **Introduces changes to mental health services**, including who can be detained, for how long, and by whom. (*Part 1: S10*)

This briefing explores these actions in more detail.

Social care and health

Temporary workers—health

Workers joining or returning to the health and social care workforce may be less experienced or have less up to date knowledge than existing staff. The Act allows temporary registration of “fit, proper and suitably experienced persons” by the Nursing and Midwifery Council and the Health and Care Professions Council. The General Medical and Pharmaceutical Councils already have similar powers for doctors and pharmacists.

Temporary workers—social care

Social workers in Scotland must be registered with the Scottish Social Services Council (SSSC). Under the Act, [the SSSC has a new section of the register for temporary workers](#). Those who can apply for registration are:

- social workers who left in the last 5 years
- final year students who have completed 75% of their practice placements and reached the required academic standard.

New or returning social workers now have 12 months to register with the SSSC rather than the usual 6 months.



How might this impact me?

This could mean you are meeting professionals who may not have worked with young people with disabilities before. They might not be familiar with the local authority processes, local support organisations or options available to you.

Transition planning should still be ongoing and we are working on a checklist to help with this.

What if there aren't enough social workers?

The number of assessments carried out will be reduced. Assessments will be prioritised for people most at risk.

But it's important to remember this part of the Act will only come into force if sickness means the social care workforce is in crisis.

For more information on what this might mean, go to the Scottish Government website at <https://www.gov.scot/publications/coronavirus-covid-19-changes-social-care-assessments/>

Education—closure and continuing education (*Section 38: S17—Part 2*)

Education establishments must pay attention to advice given by the Chief Medical Officer of Scotland.

For the purposes of the Act, an educational establishment may be:

- a school (including grant aided or independent schools).
- a college.
- a higher education institution (e.g. university).
- any education and training establishment accredited by the Scottish Qualifications Authority (SQA).

Under the Act, an Education Closure Direction (ECD) and/or an Education Continuity Direction (EConD) can come into force.

An Education Closure Direction (ECD)

“An ECD would require an operator of an educational establishment to *“take reasonable steps to restrict access to the establishment for a specified period”*. An ECD could apply to early learning establishments and out-of-school care providers, including childminders. An ECD is enforceable through Ministers applying to make an order.”
SPICe Briefing, Scottish Parliament

An Education Continuity Direction (EConD)

An EConD ruling can require an educational establishment to:

- change how it provides early learning and childcare, related services like out of school care, or how the government might use the premises to protect public health.

contd/

How will this affect me?

Even though there has been no formal ECD, on 18 March 2020 the Scottish Government announced schools would close. The Cabinet Secretary for Education and Skills told Parliament on Thursday 19 March:

“Teaching, learning and support will continue, albeit in different ways for different groups of children. For the majority, that will be through distance learning and online learning, with different forms of on-going contact with teachers rather than in-school, face-to-face teaching.”

Other impacts might be from a change in term times and holidays depending how the pandemic plays out through social distancing measures. This might change transitions processes and pathways quite drastically in the coming year.

What this means for young people moving into further or higher education is not known at the moment. The Scottish Youth Parliament has written to the SQA asking to be involved in decisions around the new grading arrangements.



An EConD - contd/

An EConD also gives the power to:

- open, stay open, re-open or open at times when not normally open;
- require identified people to attend a specified place to receive early learning and childcare, school education, further education or higher education. This is currently in place for essential workers and their young people;
- ban access or prohibit certain activities;
- alter term dates, holidays and examination dates;
- change who may attend an establishment.

An EConD can remove any time limit in relation to education. This might be important as we come to understand the impact on education for our young people.

Mental health and capacity (*Section 10:1-4, Schedule 8-11*)

The legislation around this has not yet come into effect.

Like social care, these changes have been made to enable mental health services to continue through the pandemic with a limited workforce. The aim is to reduce cross checking and administration that slow down processes.

Looking after your mental health is important at any time but especially at a time of global crisis.

How might this impact me?



Schedule 3 of the Scottish legislation impacts the length of guardianship orders for welfare and/or finance. When the temporary legislation is in force, a “pause button” essentially comes into effect. This means orders will not expire during this period, but all powers shall remain in force.

Useful links for more information

Education

Learning and qualifications: [SQA](#)

Online learning support: [Education Scotland](#)

Impact on children with additional support needs: [Enquire](#)

Impact on further and higher education: [Scottish Funding Council](#)

Mental health

If you think a child is struggling with mental health or anxiety: [NSPCC](#)

Guidance on supporting young people’s mental health and wellbeing: [UK Government](#)

Advice note for practitioners caring for patients under the Mental Health Act: [Mental Welfare Commission](#)

Advice on temporary changes for adults with incapacity: [Scottish Government](#)

Looking after your mental health: [SAMH](#)

Wellbeing advice: [Scottish Social Services Council](#)

Social care

Information for social workers in children’s and adult services and the justice system: [Social Work Scotland](#)

Provisions for looked after children and children’s hearings: [Scottish Government Guidance](#)

Looked after/care experienced young people: [CELCIS](#)

Children’s Hearings arrangements: [Children’s Hearings Improvement Partnership](#)

Social services responses to COVID-19 across Europe: [European Social Network](#)