

# **Child Rights and Wellbeing Impact Assessment**

## **Coronavirus (Scotland)(No. 2) Bill**

**May 2020**

## Child Rights and Wellbeing Impact Assessment: Stage 1 Screening - key questions

### 1. What aspects of the policy/measure will affect children and young people up to the age of 18?

The Bill proposes making provision to:

- give students in purpose-built student accommodation (PBSA), and university and college accommodation (a) a 7 day notice to leave period for those currently tied into a student accommodation contract; and (b) a 28 day notice to leave period in relation to the forthcoming academic term, during the time the provisions are in force and for Covid-19 related reasons only
- provide for a Coronavirus Carer's Allowance Supplement (CCAS) to carers aged 16 and over and in receipt of Carer's Allowance on the qualifying date of 13 April 2020
- make bankruptcy more accessible to debtors and less accessible to creditors
- temporarily withdraw the requirement for a prescribed person to witness a named person accept the role in relation to mental health law
- amend statutory time limits for criminal proceedings in the Criminal Procedure (Scotland) Act 1995
- allow the Scottish Ministers to make arrangements for Prisoner Custody Officers to carry out duties within police stations
- allow the continuation of undertakings without the conditions expiring where the court considers the person's failure to appear at court in accordance with their undertaking is attributable to a reason related to coronavirus and it is not appropriate to grant a warrant for the person's arrest.
- put beyond doubt that "exceptional circumstances" in relation to proceedings connected to the making of a confiscation order includes the effect (whether direct or indirect) of coronavirus on the proceedings. This allows the court to extend the period of postponement beyond the 2 year period set out in section 99(5) of the Proceeds of Crime Act 2002 in cases where this is necessary due to the effect that coronavirus has had on the proceedings
- amend sections 116 and 117 of the Proceeds of Crime Act 2002 and add a new section 116A, to allow the court to extend the specified period for payment of a confiscation order where, for reasons relating to coronavirus, the accused has been (or will be) unable to pay the order within 12 months from the date that the order was made. It also makes provision to dis-apply the requirement to pay interest where an order is granted by the court extending the specified period beyond 12 months from the date that the confiscation order was made
- provide that if the Citizens Assembly on Climate Change is unable, for a reason relating to coronavirus, to report by 28 February 2021, then it must do so as soon as reasonably practicable after that date
- extend the deadline for publication of a Ministerial statement on local connection

- change the dates in the European Championship (Scotland) Act 2020 (“the UEFA 2020 Act”) so that these fit with the rescheduled event. It also amends the exception to the ticket touting offence for charity auctions so that this includes charities based in any country or territory, rather than the UK and EU only
- extend the length of permission for Listed Building and Conservation Area Consents
- allow electronic submission and registration of copy deeds in the Register of Inhibitions and Register of judgments in certain circumstances
- extend the time period during which a previous main residence must be sold in order for house-buyers who have paid the Land and Building Transaction Tax Additional Dwelling Supplement (ADS) prior to a particular date to claim a repayment from Revenue Scotland
- provide a power to introduce non-domestic rates relief

## **2. What likely impact - direct or indirect - will the policy/measure have on children and young people?**

### **Changes to Student Tenancy Agreements in purpose built student accommodation (“PBSA”) and University and College Accommodation**

The introduction of a temporary seven day notice to leave period for students living in PBSA and Halls of Residence to enable them to end their accommodation contract early will ensure that students (a) who have left their accommodation, or have been unable to return to it, due to Coronavirus restrictions and who wish to end their contract early, are able to do so; and (b) will bring student’s tenancy rights in PBSAs in relation to notice periods in line with those students residing in the mainstream private rented sector. It should be noted that 61% of students who live in private sector halls are under 21 and 74% of students who live in provider maintained property are under the age of 21 and under.

### **Coronavirus Carer’s Allowance Supplement (“CCAS”)**

CCAS will mainly affect young people (16 and over) who are in receipt of Carer’s Allowance (“CA”), with indirect impacts on disabled children and young people who are cared for by someone in receipt of CA. CCAS is expected to have positive impacts on those children and young people directly affected.

According to Census 2011 data, around 8,200 16-18 year olds provide some hours of unpaid care<sup>1</sup>. As of August 2019, there are around 78,250 carers in receipt of CA in Scotland, of whom approximately 360 are aged under 18<sup>2</sup>. While some recipients may have significant capital and non-earnings income, most recipients are expected to have lower than average incomes<sup>3</sup>. Research has shown that caring can have negative impacts on carers’ health and wellbeing.

Young carers may often not recognise themselves as carers, and as such may be less likely to receive support for their caring role. Studies have suggested that this

<sup>1</sup> Scottish Government (2015) [Scotland's Carers](#)

<sup>2</sup> DWP Stat-Xplore: <https://stat-xplore.dwp.gov.uk/webapi/jsf/login.xhtml>

<sup>3</sup> Carers UK (2017) [State of Caring 2017](#), Carers Scotland (2017) [State of Caring in Scotland 2017](#)

is especially common among some minority cultural and ethnic communities<sup>4</sup>. Publicity around CCAS may increase uptake of CA among eligible young carers. The Scottish Government recognises that the limitations of the data available mean it is not possible to get a complete picture of the experiences of young carers in receipt of CA, or children and young people who are cared for, or living with, people in receipt of CA. It is also recognised that the current eligibility criteria for CA may impact more negatively on children and young people because of the restrictions on study hours and the requirement to provide at least 35 hours a week of caring. The Scottish Government has introduced a Young Carer Grant of around £300 per year for carers aged 16, 17 and 18 who are not in receipt of CA. This new grant provides some financial support and is intended to recognise the contribution of young carers who are not eligible for CA. This grant has been promoted in light of the coronavirus outbreak, and a modest increase in applications has been seen.

### **Making bankruptcy more accessible to debtors and less accessible to creditors**

To the extent that children and young people are living in households facing the burden of unsustainable debt, they will benefit indirectly from measures to make bankruptcy more accessible and give greater protection to households from creditor action. The costs of problem debt are felt strongly by families. StepChange, a debt advice agency, suggest that 90% of parents in problem debt cut back on essential items for their children to help them keep up with their debts. They suggest that families in problem debt are twice as likely to argue about money than families in general, contributing to relationship strain and family breakdown. These problems are not limited to parents. Amongst children from families in problem debt, StepChange found that 60% often worried about their families' finances. There are concerns that due to the circumstances surrounding the coronavirus outbreak, there may be a number of additional families who might enter problem debt.

### **Temporarily withdrawing the requirement for a prescribed person to witness a named person agree to the role in relation to mental health law**

Under the Mental Health (Care and Treatment) (Scotland) Act 2003 a patient aged 16 or over may choose an individual to be their named person. A named person represents the interests of and supports a patient subject to proceedings under the 2003 Act. The Bill temporarily removes the requirement for a person to have their signature witnessed by a prescribed person when they agree to become a named person.

Although these temporary changes do not apply to those under 16, the provisions in the Bill ensure that patients still have the ability to choose their own named person, while minimising any delays in the process of nomination caused by the outbreak. This in turn will reduce any delays in having the patient involved in their care and treatment decisions.

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<sup>4</sup> Children and Young People's Commissioner Scotland (February 2017) "[Coping is difficult, but I feel proud](#)" - [Perspectives on mental health and wellbeing of young carers](#)

**Amendment of statutory time limits for criminal proceedings in the Criminal Procedure (Scotland) Act 1995**

The Bill removes the time limit on the permitted length of a single adjournment in summary cases after first calling where the accused is not in custody, and in all cases to allow inquiries to be made prior to sentencing for a report on the offender's physical or mental condition or pending a decision regarding an alleged breach of a court order. The purpose of these provisions is to avoid additional court hearings in order to further adjourn cases where it is anticipated at the outset that the coronavirus outbreak means it will not be possible for further inquiries to be completed within the current maximum period for a single adjournment. These changes will apply in cases involving children who have reached the minimum age for prosecution (12) in the same way as they do to adults, but it should be noted that, in line with the Lord Advocate's guidelines on the reporting of offences committed by children, the great majority of offences alleged to have been committed by children under the age of 16 are reported to the Children's Reporter rather than being prosecuted in the criminal courts.

**Allow the Scottish Ministers to make arrangements for Prisoner Custody Officers to carry out duties within police stations**

The provisions to allow the Scottish Ministers to make arrangements for Prisoner Custody Officers will not impact on children and young people.

**Allowing the continuation of undertakings without the conditions expiring where the court considers the person's failure to appear at court in accordance with their undertaking is attributable to a reason related to the coronavirus outbreak and it is not appropriate to grant a warrant for the person's arrest.**

These provisions will impact children and young people only in instances where the person released on an undertaking is a person aged 12 years or more. It should be noted, however, *Lord Advocate's Guidelines: Liberation by the Police Covid-19 or Coronavirus* says while children can be released on undertakings, the necessity and proportionality of imposing conditions on a child must be considered carefully before applying any liberation condition to a child.

**Inclusion of the effect of coronavirus on proceedings as an exceptional circumstance in relation to the proceedings for the purposes of section 99(4) of the Proceeds of Crime Act 2002**

This amendment will have no impact on the rights of children or young people.

**Extension of the specified period for payment of a confiscation order where payment cannot be made for reasons relating to coronavirus within 12 months of the date that the order was made and disapplication of interest where an extension is granted**

This amendment may have an impact on the rights of children and young people under Article 9 of the UNCRC.

**Extension of time for report of citizens assembly on climate change**

The citizens assembly will recruit members aged 16 and over. Provision to allow for the possibility of delay will apply to all members equally.

**Extend the deadline for publication of a Ministerial statement on local connection**

The provision to extend the deadline will not impact on children and young people up to the age of 18.

**UEFA European Championship**

It is expected that the minor changes to existing legislation made by the Bill will not directly affect children and young people up to the age of 18. It is anticipated that only a small number of local traders and businesses will be impacted, over a limited number of days. For children who attend matches in Glasgow there may be some indirect negative impact in restricting the choice of goods they (and their family) can buy in event zones, however, there is also expected to be a positive indirect impact as a result of people being assured that they are buying official merchandise. Overall, these impacts are considered to be minimal for children and young people.

**Extend the length of permission for Listed Building and Conservation Area Consents**

The proposed measure to extend the duration of listed building consents and conservation areas consents that would otherwise be due to lapse during the emergency period will not impact on children and young people up to the age of 18.

**Allow electronic submission and registration of copy deeds in the Register of Inhibitions and Register of judgments in certain circumstances**

The measure will have no direct or indirect impact on children and young people. The measures will preserve the legitimate expectations of parties prior to the closing of these registers ensuring the intended effect of court judgments is available to the public.

**Extend the time period during which a previous main residence must be sold in order for house-buyers who have paid the LBTT Additional Dwelling Supplement (ADS) prior to a particular date to claim a repayment from Revenue Scotland**

The measure could have direct relevance if there are any young people who have paid the ADS and intend to reclaim it. In addition, it could impact indirectly on any children or young people who live in the household of someone who may become eligible to reclaim the ADS as a consequence of it.

**Power to introduce non-domestic rates relief**

This amendment will have no differential impact on children or young people as non-domestic rates are charged on the occupiers of non-domestic properties regardless of their age.

**3. Are there particular groups of children and young people who are more likely to be affected than others?**

**Proposed Changes to Student Tenancy Agreements in PBSA and University and College Accommodation**

The Scottish Government is aware that the majority of those remaining in student accommodation will be international students and so will benefit from the provisions. The Scottish Government estimates that almost half of students in halls are from outside the UK and hence, those staying in provider maintained and private sector halls of residence, are potentially more likely to have a wider variety of ethnic backgrounds.

#### **Coronavirus Carer's Allowance Supplement (CCAS)**

Disabled children and young people aged up to 18 cared for by CCAS recipients are more likely to be affected than other groups.

#### **Temporary removal of the requirement for a prescribed person to witness a named person agree to the role under mental health legislation**

This provision relates to those over 16 and who have a mental disorder. However this provision will ensure that patients still have the ability to choose their own named person, while minimising any delays in the process of nomination caused by the outbreak. This in turn will reduce any delays in having the patient involved in their care and treatment decisions.

#### **Make bankruptcy more accessible to debtors and less accessible to creditors**

These measures will benefit those children and young people living in households facing the burden of unsustainable debt. Children in impoverished households with debt are five times more likely to have low well-being than those in households without debt problems, according to a 2016 report by The Children's Society. In 2014, StepChange estimated 1.4m UK families, with 2.4m dependent children, were living in problem debt. Having a number of different creditors was found to significantly increase stress in impoverished households, as different creditors may have different demands and may all call for repayment at the same time.

Distressing experiences, such as visits from bailiffs, fear of eviction and stress caused by arguing parents trying to make ends meet, were found to have a direct impact on children's mental well-being.

#### **4. Who else have you involved in your deliberations?**

Given how urgently the measures in this Bill are required as a result of the unprecedented challenges currently faced, no formal public consultation has taken place. However, the Scottish Government has consulted with the undernoted stakeholders.

#### **Proposed Changes to Student Tenancy Agreements in PBSA and University and College Accommodation**

- Scottish Funding Council
- NUS Scotland
- Emily Test
- Universities Scotland
- Colleges Scotland
- CUBO
- ASRA
- AMOSSHE

- Citizens Advice Scotland
- Sheller Scotland

### **Coronavirus Carer’s Allowance Supplement (CCAS)**

There has been no formal consultation on the CCAS payment, however, the 2018 CRWIA for Carer’s Allowance Supplement, upon which our impact assessment for CCAS draws, was subject to engagement with children, young people and their representative organisations through:

- the 2016 Social Security Scotland formal consultation (of the 241 organisations that responded to the consultation, 81 were stakeholder groups relating to children/young people, equalities and human rights, disability and long term conditions, and carers)
- 2018 engagement with members of the Carer Benefit Advisory Group which includes a range of carer organisations including Carers Trust who engage heavily with young carer services.

### **Making bankruptcy more accessible to debtors and less accessible to creditors**

Given the unprecedented circumstances presented by the coronavirus outbreak, including legal requirements to limit contact with others, and the need to react quickly to protect all in society, including children and young people, it has not been possible to consult extensively with all stakeholders. However, there has been limited informal consultation carried out with representatives of the debt advice sector (Money Advice Scotland, StepChange, Citizens Advice Scotland) and creditors (UK Finance, ABCUL, CoSLA). Many of the issues covered have been addressed in earlier formal public consultations, including the 2019 Review of the Bankruptcy and Debt Advice (Scotland) Act 2014.

### **Justice**

In relation to the Justice measures in the Bill, the Scottish Government consulted with the Crown Office and Procurator Fiscal’s Office, the Scottish Courts and Tribunal Service, the Scottish Prison Service and Police Scotland.

### **Extend the time period during which a previous main residence must be sold in order for house-buyers who have paid the LBTT Additional Dwelling Supplement (ADS) prior to a particular date to claim a repayment from Revenue Scotland**

The measure would have most relevance for any young person who has paid the ADS and intends to reclaim it.

### **5. Will this require a CRWIA?**

For the reasons outlined above, the Scottish Government considers that a CRWIA is required.

### **CRWIA Declaration**

Tick relevant section, and complete the form.



CRWIA required	CRWIA not required
X Please continue to Stage 2 on the next page	
<b>Authorisation</b>	
<b>Policy lead</b> Emma Lopinska	<b>Date</b> 6 May 2020
<b>Deputy Director or equivalent</b> James Hynd	<b>Date</b> 6 May 2020

CRWIA Stage 2 The CRWIA – key questions (Hyperlinks will only work within SG)
<p><b><u><a href="#">1. Which UNCRC Articles are relevant to the policy/measure?</a></u></b>  <b><u><a href="#">List all relevant Articles of the UNCRC and Optional Protocols.</a></u></b></p> <p>All UNCRC rights are underpinned by the four general principles: non-discrimination; the best interests of the child; the right to life, survival and development; and the child’s right to have their views given due weight. The following Articles of the UNCRC and Optional Protocols are relevant to the measures in the Bill:</p> <p><b>Article 1</b> of the UNCRC defines a child as every human being below the age of 18.</p> <p><b>Article 2 (Non-discrimination)</b> - Children should not be discriminated against in the enjoyment of their rights. No child should be discriminated against because of the situation or status of their parent/carer(s).</p> <p><b>Article 3 - Best interests of the child</b> - Every decision and action taken relating to a child must be in their best interests. Governments must take all appropriate legislative and administrative measures to ensure that children have the protection and care necessary for their wellbeing - and that the institutions, services and facilities responsible for their care and protection conform with established standards.</p> <p><b>Article 4 - Protection of rights</b> - Governments should undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the UNCRC. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of the available resources.</p> <p><b>Article 5 - Parental guidance and a child’s evolving capacities</b> - Governments must respect the rights, responsibilities and duties of parents and carers, as well as members of the extended family, to direct and guide the child in the exercise of their rights.</p> <p><b>Article 9 - Separation from parents</b> - A child should not be separated from his or her parents against their will, unless such a separation is in their best interests. In any related proceedings, all interested parties shall be given an opportunity to participate and make their views known.</p>

A child who is separated from one or both parents has the right to maintain direct and regular contact with both parents, unless this is contrary to the child's best interests.

**Article 12 - Respect for the views of the child** - Every child has a right to express their views and have them given due weight in accordance with their age and maturity. Children should be provided with the opportunity to be heard, either directly or through a representative or appropriate body.

**Article 13 - Freedom of expression** - Every child must be free to say what they think and to seek, receive and share information, as long as the information is not damaging to themselves or others.

**Article 15 - Freedom of association** - Every child has the right to freedom of assembly: to meet with other children, and to join groups and organisations, as long as it does not stop others from enjoying their rights.

**Article 18 - Parental responsibilities and state assistance** - Parents, or legal guardians, have the primary responsibility for the upbringing and development of the child, and should always consider what is best for the child. Governments must provide appropriate assistance to parents and carers to help them.

**Article 26 - Social security** - Every child has a right to benefit from social security, taking into account the resources and circumstances of those who have responsibility for the child.

**Article 27 - Adequate standard of living** - Every child has a right to a standard of living adequate to their physical, mental and social development. Governments should take measures to assist parents and carers who cannot afford to provide this, and in particular to provide assistance and support with food, clothing and housing. Governments should take all appropriate measures to recover child maintenance from parents or others who have financial responsibility for the child.

## 2. What impact will the policy/measure will have on children's rights?

### **Proposed Changes to Student Tenancy Agreements in PBSA and University and College Accommodation**

The introduction of (a) a temporary day notice to leave period for students living in Purpose Built Student Accommodation and Halls of Residence to enable them to end their accommodation contract early and (b) a 28 day notice to leave period in relation to the forthcoming academic term, during the time the provisions are in force and for coronavirus outbreak-related reasons only will enhance student's rights. The measure will strengthen young people's rights.

This provision complies with **Article 1** of the UNCRC defines a child as every human being below the age of 18.

This provision complies with **Article 2 (Non-discrimination)** - Children should not be discriminated against in the enjoyment of their rights. No child should be discriminated against because of the situation or status of their parent/carer(s).

This provision complies with **Article 3 - Best interests of the child** - Every decision and action taken relating to a child must be in their best interests. Governments must take all appropriate legislative and administrative measures to ensure that children have the protection and care necessary for their wellbeing -

and that the institutions, services and facilities responsible for their care and protection conform with established standards.

This provision complies with **Article 4 - Protection of rights** - Governments should undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the UNCRC. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of the available resources.

This provision complies with **Article 9 - Separation from parents** - A child should not be separated from his or her parents against their will, unless such a separation is in their best interests. In any related proceedings, all interested parties shall be given an opportunity to participate and make their views known. A child who is separated from one or both parents has the right to maintain direct and regular contact with both parents, unless this is contrary to the child's best interests.

This provision complies with **Article 12 - Respect for the views of the child** - Every child has a right to express their views and have them given due weight in accordance with their age and maturity. Children should be provided with the opportunity to be heard, either directly or through a representative or appropriate body.

This provision complies with **Article 13 - Freedom of expression** - Every child must be free to say what they think and to seek, receive and share information, as long as the information is not damaging to themselves or others.

This provision complies with **Article 27 - Adequate standard of living** - Every child has a right to a standard of living adequate to their physical, mental and social development. Governments should take measures to assist parents and carers who cannot afford to provide this, and in particular to provide assistance and support with food, clothing and housing. Governments should take all appropriate measures to recover child maintenance from parents or others who have financial responsibility for the child.

### **Coronavirus Carer's Allowance Supplement ("CCAS")**

CCAS will affect young people (16 and over) who are in receipt of Carer's Allowance ("CA"). It will also have an indirect impact on disabled children and young people who are cared for by someone in receipt of CA.

This provision complies with **Article 3 - Best interests of the child** - Every decision and action taken relating to a child must be in their best interests. Governments must take all appropriate legislative and administrative measures to ensure that children have the protection and care necessary for their wellbeing - and that the institutions, services and facilities responsible for their care and protection conform with established standards.

This provision complies with **Article 18 - Parental responsibilities and state assistance** - Parents, or legal guardians, have the primary responsibility for the upbringing and development of the child, and should always consider what is best

for the child. Governments must provide appropriate assistance to parents and carers to help them.

This provision complies with **Article 26 - Social security** - Every child has a right to benefit from social security, taking into account the resources and circumstances of those who have responsibility for the child.

**Make bankruptcy more accessible to debtors and less accessible to creditors**

The costs of problem debt are felt strongly by families. StepChange, a debt advice agency, suggest that 90% of parents in problem debt cut back on essential items for their children to help them keep up with their debts. They suggest that families in problem debt are twice as likely to argue about money than families in general, contributing to relationship strain and family breakdown. These problems are not limited to parents. Amongst children from families in problem debt, StepChange found that 60% often worried about their families' finances. There are concerns that due to the circumstances surrounding the coronavirus outbreak, there may be a number of additional families who might enter problem debt. These measures will benefit those children and young people living in households facing the burden of unsustainable debt.

This provision complies with **Article 3 - Best interests of the child** - Every decision and action taken relating to a child must be in their best interests. Governments must take all appropriate legislative and administrative measures to ensure that children have the protection and care necessary for their wellbeing - and that the institutions, services and facilities responsible for their care and protection conform with established standards.

This provision complies with **Article 18 - Parental responsibilities and state assistance** - Parents, or legal guardians, have the primary responsibility for the upbringing and development of the child, and should always consider what is best for the child. Governments must provide appropriate assistance to parents and carers to help them.

**Temporary removal of the requirement for a prescribed person to witness a named person agree to the role under mental health legislation**

This provision will ensure that patients over 16 who have a mental disorder still have the ability to choose their own named person, while minimising any delays in the process of nomination caused by the outbreak. This in turn will reduce any delays in having the patient involved in their care and treatment decisions.

This provision complies with **Article 3 - Best interests of the child** - Every decision and action taken relating to a child must be in their best interests. Governments must take all appropriate legislative and administrative measures to ensure that children have the protection and care necessary for their wellbeing - and that the institutions, services and facilities responsible for their care and protection conform with established standards.

This provision complies with **Article 4 - Protection of rights** - Governments should undertake all appropriate legislative, administrative and other measures for

the implementation of the rights recognised in the UNCRC. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of the available resources.

This provision complies with **Article 12 - Respect for the views of the child** - Every child has a right to express their views and have them given due weight in accordance with their age and maturity. Children should be provided with the opportunity to be heard, either directly or through a representative or appropriate body.

This provision complies with **Article 13 - Freedom of expression** - Every child must be free to say what they think and to seek, receive and share information, as long as the information is not damaging to themselves or others.

**Extension of the specified period for payment of a confiscation order where payment cannot be made for reasons relating to coronavirus within 12 months of the date that the order was made and disapplication of interest where an extension is granted**

This amendment may have an impact upon the rights of children and young people under **Article 9 of UNCRC - Separation from parents** - A child should not be separated from his or her parents against their will, unless such a separation is in their best interests. In any related proceedings, all interested parties shall be given an opportunity to participate and make their views known.

A child who is separated from one or both parents has the right to maintain direct and regular contact with both parents, unless this is contrary to the child's best interests.

Where a court has granted a confiscation order, it can extend the time required to pay the order to six months from the date the order is made, and in exceptional circumstance to a maximum of 12 months. The Proceeds of Crime Act does not permit any extension beyond 12 months.

By providing for the court to extend the 12 month permitted period for reasons connected to coronavirus, the accused has longer to fulfil the confiscation order and therefore avoid receiving a default custodial sentence for non-payment that would separate them from their children.

**Citizens Assembly on Climate Change**

The Bill makes provision to delay the assembly if required.

This measure applies to all Members of the Citizens Assembly equally, including those aged 16-18 so is non-discriminatory and therefore complies with **Article 2 Non-discrimination** - Children should not be discriminated against in the enjoyment of their rights. No child should be discriminated against because of the situation or status of their parent/carer(s).

This measure has been taken to ensure the best interests of those participants who are 16 or 17 are taken into consideration, ensuring they are kept safe and can participate in a way that is in accordance with Covid-19 guidelines and therefore complies with **Article 3 - Best interests of the child** - Every decision and action

taken relating to a child must be in their best interests. Governments must take all appropriate legislative and administrative measures to ensure that children have the protection and care necessary for their wellbeing - and that the institutions, services and facilities responsible for their care and protection conform with established standards.

By having the opportunity to extend the reporting deadline the Scottish Government is ensuring the voices of young people can continue to be heard in decisions that are important to them and therefore complies with **Article 12 - Respect for the views of the child** - Every child has a right to express their views and have them given due weight in accordance with their age and maturity. Children should be provided with the opportunity to be heard, either directly or through a representative or appropriate body.

By allowing for an extension, if required, the Scottish Government is preserving the right to freedom of assembly through participation in a climate citizens assembly and therefore complies with **Article 15 - Freedom of association** - Every child has the right to freedom of assembly: to meet with other children, and to join groups and organisations, as long as it does not stop others from enjoying their rights.

**Extend the time period during which a previous main residence must be sold in order for house-buyers who have paid the LBTT Additional Dwelling Supplement (ADS) prior to a particular date to claim a repayment from Revenue Scotland**

This provision complies with **Article 2 (Non-discrimination)** - Children should not be discriminated against in the enjoyment of their rights. No child should be discriminated against because of the situation or status of their parent/carer(s).

This provision complies with **Article 4 - Protection of rights** - Governments should undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the UNCRC. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of the available resources.

### **Summary**

The Scottish Government considers the impacts of the measures within the Bill are justified and a proportionate means of achieving the legitimate aim of protecting and assisting the general public during the coronavirus. In line with requirements set out in the Coronavirus (Scotland) Act 2020, the Bill contains the following safeguards:

- Part 1 of the Bill will automatically expire less than six months after it comes into force. The Scottish Parliament may extend this for two further periods of six months, giving Part 1 of the Bill a maximum duration of 18 months;
- where a provision in Part 1 of the Bill is no longer considered necessary, Scottish Ministers may bring it to an end earlier than on this six-monthly schedule;
- Scottish Ministers are required by the Bill to report on the continued need for the measures, and on the use of powers in the Bill, every two months.

### **3. Will there be different impacts on different groups of children and young people?**

#### **Proposed Changes to Student Tenancy Agreements in PBSA and University band College Accommodation**

This measure focusses on students, not all of whom will be young people.

These measures would (i) ensure that students who have left their accommodation, or have been unable to return to it, due to Coronavirus restrictions and who wish to end their contract early, are able to do so; and (ii) give students looking to find suitable accommodation for the next academic term reassurance that should restrictions continue and they are unable to take up the accommodation, that they will not be forced to pay for accommodation they are not using for a full academic year, during the time the provisions are in force.

This latter provision will bring student's tenancy rights in PBSAs in relation to notice periods in line with those students residing in the mainstream private rented sector.

#### **Coronavirus Carer's Allowance Supplement**

These measures are expected to have a positive impact on young carers in receipt of Carer's Allowance, or children and young people who are cared for, or living with, people in receipt of Carer's Allowance who are on lower incomes.

#### **Make bankruptcy more accessible to debtors and less accessible to creditors**

These measures will benefit those children and young people living in households facing the burden of unsustainable debt.

#### **Temporary removal of the requirement for a prescribed person to witness a named person agree to the role under mental health legislation**

These measures are expected to have a positive impact on patients over 16 and who have a mental disorder by ensuring that they still have the ability to choose their own named person, while minimising any delays in the process of nomination caused by the outbreak. This in turn will reduce any delays in having the patient involved in their care and treatment decisions.

#### **Extension of the specified period for payment of a confiscation order where payment cannot be made for reasons relating to coronavirus within 12 months of the date that the order was made and disapplication of interest where an extension is granted**

This amendment may have a positive impact on the rights of children and young people under Article 9 of UNCRC, however this will not impact differently on different groups of children and young people.

#### **Extending the time period during which a previous main residence must be sold in order for house-buyers who have paid the LBTT Additional Dwelling Supplement (ADS) prior to a particular date to claim a repayment from Revenue Scotland**

The measure would have most relevance for any young people who have paid the ADS and intend to reclaim it. In addition, it may have indirect impacts on any children or young people who live in the household of someone who may become eligible to reclaim the ADS as a consequence of it.

**4. If a negative impact is assessed for any area of rights or any group of children and young people, what options have you considered to modify the proposal, or mitigate the impact?**

Children's rights and wellbeing are a priority for this government. No negative impacts have been identified.

**5. How will the policy/measure contribute to the wellbeing of children and young people in Scotland?**

- *Safe - Protected from abuse, neglect and harm by others at home, at school and in the community.*
- *Healthy - Having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy and safe choices.*
  - The measure in relation to PBSA and University and College Accommodation will contribute to bringing children and young people's rights into alignment which will enhance their mental wellbeing and enable them to make safe choices.
  - The temporary removal of the requirement for a prescribed person to witness a named person agree to the role under mental health legislation is expected to have a positive impact on patients over 16 who have a mental disorder by reducing any delays in having the patient involved in their care and treatment decisions.
- *Achieving - Being supported and guided in their learning and in the development of their skills, confidence and self-esteem at home, at school and in the community*
- *Nurtured - Having a nurturing place to live, in a family setting with additional help if needed or, where this is not possible, in a suitable care setting.*
  - In relation to PBSA and University and College Accommodation measures, the tenancy rights underpinning those safe places to live will be the same for all young people who are studying and living away from home.
  - There are strong links between unsustainable debt and mental health. It is also clear that many of those in extreme debt face difficulties about providing basic necessities for their children. As such, the measures on bankruptcy make a small contribution towards ensuring all children can have a nurturing place to live.
  - CCAS is expected to have a positive impact on the finances of carers, and children and young people who are cared for, or living with, people in receipt of Carer's Allowance on lower incomes.



- *Active - Having opportunities to take part in activities such as play, recreation and sport which contribute to healthy growth and development, both at home and in the community*
- *Respected - Having the opportunity, along with carers, to be heard and involved in decisions which affect them*
  - CCAS is expected to have a positive impact on the finances of carers, and children and young people who are cared for, or living with, people in receipt of Carer's Allowance on lower incomes.
  - The citizens assembly provision will preserve the rights of young people (age 16-17) to be heard and be included in deliberations about climate change that affect them.
- *Responsible - Having opportunities and encouragement to play active and responsible roles in their schools and communities and, where necessary, having appropriate guidance and supervision and being involved in decisions that affect them*
  - The citizens assembly provision will preserve the opportunity for young people (age 16-18) to play full roles as Assembly Members and to be part of the Assembly decision making process and preparing the report to be presented to Scottish Ministers and the Scottish Parliament.
- *Included - Having help to overcome social, educational, physical and economic inequalities and being accepted as part of the community in which they live and learn.*
  - The measure in relation to PBSA and University and College Accommodation will contribute to bringing rights into alignment, enabling them to feel that they are an accepted part of the community in which they live and learn.
  - CCAS is expected to have a positive impact on the finances of carers on lower incomes.

#### **6. How will the policy/measure give better or further effect to the implementation of the UNCRC in Scotland?**

These provision in the emergency legislation contribute to the Scottish Ministers' duty to keep under consideration whether there are any steps which they could take which would or might secure better or further effect in Scotland of the UNCRC requirements under the Children and Young People (Scotland) Act 2014.

Children and young people in PBSA and university and college accommodation will have the same rights as their peers.

Children and young people included in the citizens assembly on climate change will have the same opportunities as others to form advice on issues that affect them and Scotland's future (achieving, respected, responsible).

## 7. What evidence have you used to inform your assessment? What does it tell you?

### **Proposed Changes to Student Tenancy Agreements in PBSA and University and College Accommodation**

ASRA and CUBO undertook a survey of their members in late April 2020. A total of 21 providers took part, this included only 6 private sector PBSA accommodation providers. It should also be noted that although ASRA membership includes most providers, not all providers of student accommodation are members, and not all of their members replied. The survey was, therefore, not comprehensive. It highlighted, however, amongst other things:

- Almost 80% of providers had made provision for early release arrangements for students, many using a 28 day notice period;
- Less than half (38%) had made arrangements around student belongings;
- Over half had made arrangements to support overstaying students who can't now get home or will be self-isolating beyond their contract end, including flexible tenancy arrangements into the summer term;
- Occupancy rates vary from around 16% to 80%, with the majority of students in accommodation being international students;
- Providers are taking bookings for 2020/21, with some indicating they are aware of possible changes to the start of the academic year and others noting they are proceeding as normal; and
- Concerns expressed around the impact of social isolation on students with support services being delivered remotely.

A review of members' websites by ASRA revealed that (as of 13 April 2020) 5 are offering to break contracts early with no penalty, 4 give no further advice, while 9 have advised that they are either in negotiation with landlords/owners or are applying standard cancellation policies. It is not possible to obtain a verifiable number of students currently affected by those providers not releasing students early from contracts. At the call to discuss the survey, on Wednesday 29 April, it was indicated by the ASRA representative that currently the biggest 9 private sector PBSA accommodation providers had provided some form of early release for students.

Officials have been advised that in the PBSA sector, contracts are dependent upon what a student has requested when signing up for accommodation e.g. students may request a contract for one semester, an entire academic year or for 52 weeks. In colleges and universities, contract terms will be dictated by the nature of study e.g. contracts for undergraduate students will likely last 38 weeks and postgraduate students for 51 weeks, based on semester terms for these cohorts of students. Contracts will therefore vary across the sector and at this stage officials are not able to accurately identify the number of students tied into contracts that extend beyond the academic term.

NUS Scotland have started the #NotStayingNotPaying campaign, in which they set out 5 key asks of the Scottish Government to ensure student renters are protected during the coronavirus outbreak. One of the key protections set out in this campaign is that every landlord managing student accommodation must offer a no-penalty release from tenancy contracts for the current and next academic year.

NUS Scotland have raised the issue of early release from contracts both in conversations with officials and the Minister for Further Education, Higher Education and Science. Liam McCabe, President of NUS Scotland, raised with the Minister on 30 April that NUS Scotland have discovered that students being made to observe notice periods is a much wider practice than they had ever thought.

#### **8. Have you consulted with relevant stakeholders?**

Given the unprecedented circumstances presented by the coronavirus outbreak, including legal requirements to limit contact with others, and the need to react quickly to protect all in society, including children and young people, it has not been possible to consult extensively with all stakeholders.

For provisions related to proposed Changes to Student Tenancy Agreements in PBSA Scottish Government officials have engaged with:

- Scottish Funding Council
- NUS Scotland
- Emily Test
- Universities Scotland
- Colleges Scotland
- CUBO
- ASRA
- AMOSSHE
- Citizens Advice Scotland
- Shelter Scotland

For provisions related bankruptcy limited informal consultation has been carried out with representatives of the debt advice sector (Money Advice Scotland, StepChange, Citizens Advice Scotland) and creditors (UK Finance, ABCUL, CoSLA). Many of the issues covered have been addressed in earlier formal public consultations, including the 2019 Review of the Bankruptcy and Debt Advice (Scotland) Act 2014.

For provisions related to Justice, Scottish Government officials have consulted with Crown Office and Procurator Fiscal Service, Police Scotland, the Scottish Courts and Tribunal Service and the Scottish Prison Service.

The Scottish Government will continue to discuss these issues with key stakeholders once the legislation is in place to mitigate any possible unforeseen negative effects.

For provisions related to the Proceeds of Crime Act 2002, the Scottish Government has discussed these issues with COPFS. COPFS has identified them as priority issues and Scottish Government agrees with this assessment

**9. Have you involved children and young people in the development of the policy/measure?**

Given the unprecedented circumstances presented by the coronavirus outbreak and the need to react quickly to protect all in society, including children and young people, it has not been possible to consult with children and young people on the proposed legislation. The Scottish Government has, however, engaged with those stakeholders affected directly by the legislation and will continue to work with them for the period of the outbreak, including getting input from children and young people to mitigate any possible unforeseen negative effects.

Specifically in relation to the measures on Student Tenancy Agreements in PBSA and University and College Accommodation, NUS Scotland and Emily Test – who, as organisations, are informed by the voices of students and young people have been consulted and helped shaped the measure.

**Child Rights and Wellbeing Impact Assessment**

**Policy/measure**

**A general description of the policy/measure**

The purpose of the Coronavirus (Scotland)(No. 2) Bill (“the Bill”) is to respond to the emergency situation caused by the coronavirus outbreak. The Bill complements and supplements the Coronavirus (Scotland) Act 2020, passed by the Scottish Parliament on 1 April 2020, and the Coronavirus Act 2020, passed by the UK Parliament on 25 March 2020, which the Scottish Parliament gave its consent to on 24 March 2020. The Bill will put in place necessary and urgent measures in order to address the continued threats posed by the outbreak in Scotland.

The coronavirus outbreak is a severe and sustained threat to human life in Scotland. The Scottish Government is committed to taking all steps necessary to address that threat. A severe pandemic could infect a large proportion of the population, and the public health measures required to control and limit the spread of the outbreak require a significant adjustment to the lives of those living in Scotland, to business in Scotland, and to the way public services are delivered and regulated.

Even beyond the new restrictions on living and working in Scotland, the coronavirus outbreak continues to have an effect on essential public services which demands a response. The continuing shift in resourcing and prioritisation for central and local government, and those involved in health and social care, will require a number of the obligations and duties on public services in Scotland to be adjusted

	<p>temporarily, to reflect the importance which the Scottish Government places on responding to the coronavirus outbreak, and protecting the health of people living in Scotland.</p> <p>In deciding to progress further emergency legislation in response to the coronavirus outbreak, the Scottish Government has taken into account its responsibility first and foremost to protect the lives and health of people living in Scotland. It has also borne in mind the unprecedented pressures on Scottish business and on the public sector in Scotland, and the effect of the substantial adjustment to the way people are being asked to live by public health guidance, and required to live by the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020.</p> <p>To support these aims, the Bill takes the following measures:</p> <ul style="list-style-type: none"> <li>• it makes adjustments to laws which protect individuals to ensure their effective operation during the coronavirus outbreak;</li> <li>• it makes adjustments to criminal procedure, and to other aspects of the justice system, to ensure that essential justice business can continue to be disposed of throughout the coronavirus outbreak;</li> <li>• it makes a range of provision designed to ensure that business and public services can continue to operate effectively during a period where controls on movements have been imposed, and when pressures on public services are acute.</li> </ul>
<p><b>Project initiation document</b></p> <p><b>Add link to the document</b></p>	<p>-</p>
<p><b>Initiating department</b></p> <p><b>The responsible team or division. If this is a cross-cutting policy, name the team that has overall responsibility</b></p>	<p>Constitution and External Affairs – Constitution and Cabinet Directorate</p>
<p><b>Policy aims</b></p>	<p>The Bill contains a wide range of policy measures to put in place all necessary measures to address the coronavirus</p>

<p><b>What the policy or measure is trying to achieve; what are the expected outcomes</b></p>	<p>outbreak. Specifically in relation to child rights and wellbeing the Bill will make provision to:</p> <ul style="list-style-type: none"> <li>• Give students in purpose-built student accommodation (PBSA), and university and college accommodation (a) a 7 day notice to leave period for those currently tied into a student accommodation contract; and (b) a 28 day notice to leave period in relation to the forthcoming academic term, during the time the provisions are in force and for Covid-19 related reasons only</li> <li>• Provide for a Coronavirus Carer’s Supplement Allowance</li> <li>• Make bankruptcy more accessible to debtors and less accessible to creditors</li> <li>• Temporarily remove of the requirement for a prescribed person to witness a named person agree to the role under mental health legislation</li> <li>• Extend the specified period for payment of a confiscation order where payment cannot be made for reasons relating to coronavirus within 12 months of the date that the order was made and disapplication of interest where an extension is granted</li> <li>• Extend the time period during which a previous main residence must be sold in order for house-buyers who have paid the LBTT Additional Dwelling Supplement (ADS) prior to a particular date to claim a repayment from Revenue Scotland</li> </ul>
<p><b>Timetable</b></p> <p><b>What is the time frame for a policy announcement/ consultation/ implementation</b></p>	<p>As this Bill is part of the on-going response to the coronavirus outbreak and complements and supplements both the Coronavirus (Scotland) Act 2020 and the UK 2020 Act, the Bill will be introduced and published on 11 May 2020. As the Bill is introducing emergency measures it will be considered by the Scottish Parliament between 12 May and 20 May 2020.</p> <p>Given the unprecedented circumstances presented by the coronavirus outbreak and the need to react quickly to protect all in society, including children and young people, it has not been possible to consult extensively with all stakeholders. However, stakeholder have been consulted on specific elements of the Bill.</p> <p>The Bill contains necessary measures required to respond to an emergency situation. The Scottish Government is satisfied that all of the measures contained in the Bill are appropriate and proportionate. In line with requirements set out in the Coronavirus (Scotland) Act 2020, the Bill contains the following safeguards:</p> <ul style="list-style-type: none"> <li>• Part 1 of the Bill will automatically expire less than six months after it comes into force. The Scottish</li> </ul>

	<p>Parliament may extend this for two further periods of six months, giving Part 1 of the Bill a maximum duration of 18 months;</p> <ul style="list-style-type: none"> <li>• where a provision in Part 1 of the Bill is no longer considered necessary, Scottish Ministers may bring it to an end earlier than on this six-monthly schedule;</li> <li>• Scottish Ministers are required by the Bill to report on the continued need for the measures, and on the use of powers in the Bill, every two months.</li> </ul> <p>The Scottish Government is committed to keeping the provisions of this Bill under review at all times, under the scheme set out above.</p>
<b>Date</b>	6 May 2020
<b>Signature</b>	James Hynd



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