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By e-mail

12 May 2020

Dear Murdo,

CORONAVIRUS (SCOTLAND) (NO.2) BILL

Thank you for the opportunity to give evidence before the Covid-19 Committee this morning. I look forward to hearing from you and other committee members, as well as members from across the chamber, during the Stage One debate tomorrow.

I committed to writing to the Committee to respond in more detail to a number of the points raised during this morning's evidence session.

Marriages and civil partnerships

The practical difficulties involved in performing marriage ceremonies and registering marriages and civil partnerships are an understandable challenge for many families. I therefore want to reassure the Committee that the Scottish Government takes this matter seriously and wishes to see ceremonies resume in a responsible manner, consistent with both public health guidance on gatherings and the increased pressure during the outbreak on registrars and public authorities.

As Committee members are aware, due to the coronavirus outbreak, registrars are currently prioritising and focussing on the essential work involved in the registration of deaths and still-births. However, Adam Tomkins raised the important issue of marriages which need to take place urgently, for reasons which are very often intensely sad.

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As I said this morning, in such an emergency situation, it is currently possible for marriages or civil partnerships to take place, subject to the restrictions in the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020. That is because the relevant marriage and civil partnership documentation can, under present legislation, be prioritised by a registrar and marriages and civil partnerships effected at great speed. MSPs should make their constituents aware that, in these circumstances, the couple should approach their religious or belief body and the local registrar or National Records of Scotland (NRS) at marriage@nrscotland.gov.uk. NRS would then discuss the request with the local registrar. If NRS agree there is an emergency reason to get married or enter a civil partnership, NRS can ask the local registrar to issue the necessary documentation.

I also mentioned that under normal circumstances at least 28 clear days have to be allowed when giving notice of intention to marry but that it is possible for this 28 day rule to be waived by the Registrar General. This is provided for in current legislation at section 6(4) of the Marriage (Scotland) Act 1977. The Registrar General will waive the 28 day rule when there is an emergency such as a person dying or about to be posted overseas.

I agree with the wider point made, that there is a need to ensure public understanding of what is possible. The Scottish Government, working with NRS, will shortly provide more information to the public on these arrangements and on who to contact in these circumstances. I will ensure that this guidance is copied to the Committee when it is issued.

Electronic signatures

During the Committee's evidence session, Stewart Stevenson asked about paragraph 10 of schedule 1 of the Bill, and the reference made in paragraph 10(2)(b) to "a version of an electronic signature which is reproduced on a paper document".

The purpose of paragraph 10 of schedule 1 is to permit the forms laid out in schedule 1 to the Bankruptcy (Scotland) Regulations 2016 to be signed using an electronic signature which meets the requirements of section 7(2) of the Communications Act 2000, for instance a typed name. The Regulations already allow for electronic submission of forms, but require the forms to be signed either with a manuscript signature or an image of a manuscript signature sent electronically.

The Bill does not require an advanced electronic signature or a fully certified electronic signature to be applied to the forms. The wording about "a version of an electronic signature reproduced on a paper document" is intended to supplement the definition in the 2000 Act by making it clear that if an electronic signature (of whatever kind) is applied to a form, and that form is then printed in hard copy, the electronic signature is not invalidated. This particular form of wording has been used in other legislation including in Part 1 of schedule 4 to the Coronavirus (Scotland) Act 2020 in relation to court documents, which similarly do not require the electronic signature used to take the form of an advanced or fully certified electronic signature.

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Electronic signatures are already a feature of the protected trust deed system and the debt arrangement scheme. Allowing a simple electronic signature to be applied to the forms which are used in the sequestration process is considered to be proportionate in the circumstances, and it is worth noting that the relevant forms can still be signed with a manuscript signature.

Housing (Scotland) Act 1987: statement on local connection

The statutory deadline for the making of a statement under section 33B of the Housing (Scotland) Act 1987, on the referral of an application for accommodation to another local authority, would be extended under the Bill from 12 months (that is, by 7 November 2020) to 18 months; with a single further extension of 6 months possible. This statutory deadline is, I should emphasise, the latest date by which it must be published. Ministers will of course seek to publish a statement as soon as is appropriate and responsible.

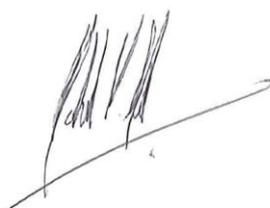
Extending the deadline for making the Ministerial Statement (and therefore taking the opportunity to postpone the consultation required) will give local authorities and third sector front-line services much needed time and space to focus efforts on responding to the outbreak, on behalf of those who are homeless or threatened with homelessness.

The extension of 6 months provides space to deal with the uncertainties surrounding the response to the pandemic. The statement can still be published at any point up until that deadline and the Government's intention is to proceed as soon as the pressures on local authorities, third sector organisations and ourselves allow.

In the meantime, local authorities continue to have a power under section 33 of the Housing (Scotland) Act 1987 to refer an applicant to another local authority if they think the applicant does not have a local connection with them and does have a local connection with another authority.

I trust that this answers your questions, but please do let me know if we can provide your Committee with any further information which would assist your scrutiny of the Bill.

Yours sincerely,



MICHAEL RUSSELL MSP

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