



Introduction

Amnesty recognises the need for an extension of some Coronavirus provisions to prevent, treat and control disease, protect the right to health, and fulfil the positive obligation to protect life. All measures should be appropriate, necessary, and proportionate to achieve these aims, and be compatible with international human rights standards.

In our briefings ahead of the original emergency legislation last year Amnesty stated, “It is critical that as the COVID-19 crisis moves beyond the emergency crisis situation, the Scottish Government adopts the highest standards of scrutiny of law and policy-making.” While Amnesty has listened to the arguments made by ministers for the extremely short time period allowed for scrutiny of this Bill, we would take this opportunity to highlight the unsatisfactory restrictions the timescale places on scrutiny and participation in decision making, including the lack of formal consultation.

Right to Housing

Forced evictions represent the violation of a number of human rights including the right to adequate housing, and particularly in the context of a public health emergency – potentially the rights to life, to security of person, to health, to protection of the home and family and to freedom from cruel and inhuman treatment. The Scottish Government must reinstate the ban on eviction of tenants.

Amnesty welcomes the extension of Section 2 and schedule 1: paragraphs 1 and 4 of the Coronavirus (Scotland) Act 2020 to maintain the increased notice period for eviction of private and social sector tenants.

However, tenants’ unions, charities and MSPs have consistently called for the eviction ban which was lifted on May 17th to be reinstated. Amnesty wrote to the Cabinet Secretary for Social Justice, Housing and Local Government in May outlining the violations of international law represented by forced evictions. The Scottish Government must act now by reinstating the ban on evictions across Scotland.

Forced evictions constitute a violation of a range of human rights including the right to adequate housing and are therefore prohibited in all circumstances. Under international law, a “forced eviction” is defined as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other

protection.” This includes a prohibition on rendering people homeless. Guidance issued by the UN Special Rapporteur on Adequate Housing notes that “Housing has become the frontline defence against the coronavirus” and has called on states to declare a moratorium on evictions until the end of the pandemic and for a reasonable time thereafter.

Last year Amnesty welcomed the Scottish Government’s commitment to extending the right to suitable temporary accommodation to all homeless households earlier than previously planned. The new Unsuitable Accommodation Order (UAO) introduced in May 2020 contained some exemptions allowing the continued use of unsuitable accommodation where a member of the household had coronavirus symptoms and required to isolate, these exceptions were originally in place until the end of September 2020. It is disappointing that the Scottish Government has continued to extend these exemptions and delay the full extension of the UAO to all.

Related to the right to housing - Amnesty supports Shelter Scotland’s calls for the government to immediately end the use of exemptions to the Unsuitable Accommodation Order and ensure that Local Authorities have the support and resources they require to get people into decent temporary accommodation.

Care Homes

Amnesty notes the expiry of duties on the Care Inspectorate to produce a fortnightly report setting out care home services it has inspected and the findings of those inspections, as well as a weekly report of deaths in care homes attributable to Coronavirus.

In its policy memorandum the government argues that these data are already and will continue to be, publicly available via the National Records of Scotland after the provisions expire. However, it is not the case that individual care homes are identified in publicly available documents. According to analysis of the Bill by SPICe, the expiry of these provisions will mean that if the reporting is no longer required then this information will no longer be available.

Given the disproportionately high number of deaths from Coronavirus among those residents in care homes Amnesty is concerned by any decrease in transparency and accountability. As much information as possible should remain publicly available to enable monitoring and scrutiny. Detailed information of this nature will also be required to ensure maximum accountability when a public inquiry commences.

Criminal Justice and Use of Remand

The extension of Section 5 and schedule 4: paragraph 10 of the Coronavirus (Scotland) Act 2020) will mean the continuation of certain time limits contained in the Criminal Procedure (Scotland) Act 1995 and has the effect of increasing the maximum time period that an accused person can be held on remand prior to trial, together with other

time limits for progressing a criminal case including the maximum wait prior to trial where the accused is not in custody.

In international law, the detention of individuals who are awaiting trial is a matter of special concern. They have yet to be found guilty of any offence and are therefore innocent in the eyes of the law. This is a fundamental human rights principle, enshrined in the Universal Declaration of Human Rights (Article 11, paragraph 1) and elaborated on in the International Covenant on Civil and Political Rights (ICCPR), specifically the rights of a detained person to know why he or she has been arrested and to be brought before a court of law at the earliest possible opportunity.

While there must always be consideration given to whether prisoners release will put the public at risk, Amnesty has concerns about the growing number of people subject to pre-trial detention, particularly in the context of the pandemic.

The Scottish Government must make public an assessment of whether international standards, particularly those contained in the ICCPR, ECHR and UNCRC are being met in Scotland's prisons.

Public Inquiry into COVID-19

Finally, Amnesty International would like to reiterate its call for a Public Inquiry into Coronavirus to be urgently established. There not only needs to be accountability for decisions made but lessons learnt, and recommendations applied immediately as we continue to live with public health restrictions.

We understand that historically inquiries are lengthy processes which can take several years to conclude. Therefore, we urge the Scottish Government to ensure that the Terms of Reference of the inquiry include instructions to conduct investigations in interim phases to facilitate the expedited publication of findings into specific areas of concern before the completion of the entire inquiry.

We would urge the Scottish Government to set out a timeline for this Inquiry as they expediate another extension to its powers.

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