



Coronavirus Bill: emergency Covid-19 legislation

On 24 March 2020, the second reading of the [Coronavirus Bill](#) is scheduled to take place in the House of Lords. Remaining stages are due to be completed on 25 March 2020.

Summary

The bill provides powers to enable the Government and various public bodies to manage the effects of the Covid-19 pandemic in the UK. The bill has a two-year sunset clause and the Government has described the powers as “temporary and proportionate”.

The bill’s powers include:

- emergency registration of health professionals and social workers;
- provision of indemnity insurance for health workers and compensation schemes for health service volunteers;
- amendments to mental health legislation, to allow certain functions relating to the detention and treatment of patients to be satisfied by fewer doctors’ opinions or certifications;
- closure of educational establishments, powers to force educational and childcare providers to remain open, and the relaxing of staff-child ratios in educational settings;
- detention of those suspected of being infected with Covid-19, for the purposes of screening and assessment;
- restrictions on public gatherings, the movement of transport, and the closure of ports and airports;
- reforms to death management processes, including the registering of deaths and the transport and disposal of dead bodies; and
- postponement of local and mayoral elections, which had been planned in May 2020.

The Labour Party has expressed general support for the bill. However, Jeremy Corbyn, Leader of the Opposition, has stated that the continued enforcement of the bill’s powers should be subject to a vote in the House of Commons every six months.

James Goddard | 20 March 2020

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I. Background

The purpose of the bill is to allow the Government to manage the effects of the outbreak of Covid-19 in the UK.¹ The World Health Organization has declared the spread of Covid-19 a global pandemic.² In late 2019, authorities in China reported an outbreak of a pneumonia-like disease in Wuhan province.³ The disease was subsequently identified as a form of coronavirus, known as novel Wuhan coronavirus or Covid-19. By January 2020, there were thousands of confirmed cases in China and the virus had caused hundreds of deaths. The disease has since spread to other countries, with major outbreaks in South Korea, Iran, Italy, and Spain. In the UK, as of 1pm on 20 March 2020, there were 3,983 cases, and 177 deaths had been caused by the virus.

In response, the UK, along with other European countries and the US, has imposed a range of restrictions and ‘social-distancing’ policies, intended to delay the transmission of the virus. Social distancing policies have included: restrictions on movement and travel; banning of sports events and other large gatherings; enforced working from home, where possible; and school and college closures.

The bill’s [explanatory notes](#) state that:

A severe pandemic could infect up to 80 percent of the [UK] population leading to a reduced workforce, increased pressure on health services and death management processes. The bill contains temporary measures designed to either amend existing legislative provisions or introduce new statutory powers which are designed to mitigate these impacts.⁴

2. Bill provisions

On 17 March 2020, the Government [published guidance](#) on what the Coronavirus Bill would do. It stated that the legislation was necessary “to give public bodies across the UK the tools and powers they need to carry out an effective response to this emergency”.⁵ The guidance said that the powers would be:

Time-limited—for 2 years—and not all of these measures will come into force immediately. The bill allows the four UK governments to switch on these new powers when they are needed, and, crucially, to switch them off again once they are no longer necessary, based on the advice of chief medical officers of the four nations.⁶

The guidance said that the bill’s provisions would broadly relate to five areas:

- **increasing the available health and social care workforce**—for example, by

¹ [Explanatory Notes](#), p 5.

² World Health Organization, [‘WHO Director-General’s opening remarks at the media briefing on Covid-19’](#), 11 March 2020.

³ House of Lords Library, [Coronavirus: A Public Health Emergency](#), 5 February 2020, p 1.

⁴ [Explanatory Notes](#), p 5.

⁵ Department of Health and Social Care, [‘What the coronavirus bill will do’](#), 17 March 2020.

⁶ *ibid.*

removing barriers to allow recently retired NHS staff and social workers to return to work (and in Scotland, in addition to retired people, allowing those who are on a career break or are social worker students to become temporary social workers);

- **easing the burden on frontline staff**—by reducing the number of administrative tasks they have to perform, enabling local authorities to prioritise care for people with the most pressing needs, allowing key workers to perform more tasks remotely and with less paperwork, and taking the power to suspend individual port operations;
- **containing and slowing the virus**—by reducing unnecessary social contacts, for example through powers over events and gatherings, and strengthening the quarantine powers of police and immigration officers;
- **managing the deceased with respect and dignity**—by enabling the death management system to deal with increased demand for its services; and
- **supporting people**—by allowing them to claim statutory sick pay from day one, and by supporting the food industry to maintain supplies.⁷

The following sections provide a more detailed summary of the provisions in each of the five areas, and the provisions for parliamentary scrutiny of the bill.

Increasing the available health and social care workforce

The guidance stated that the bill's powers would:

- enable regulators to emergency register suitable people as regulated healthcare professionals, such as nurses, midwives or paramedics;
- enable regulators to temporarily add social workers to their registers who may have recently left the profession;
- enable employees and workers to take emergency volunteer leave in blocks of 2, 3 or 4 weeks' statutory unpaid leave and establish a UK-wide compensation fund to compensate for loss of earnings and expenses incurred at a flat rate for those who volunteer through an appropriate authority;
- provide indemnity for clinical negligence liabilities arising from NHS activities carried out for the purposes of dealing with, or because of, the coronavirus outbreak, where there is no existing indemnity arrangement in place; and
- suspend the rule that currently prevents some NHS staff who return to work after retirement from working more than 16 hours per week, along with rules on abatements and drawn-down of NHS pensions that apply to certain retirees who return to work.⁸

Easing the burden on frontline staff

The bill would:

- enable existing mental health legislation powers to detain and treat patients who need

⁷ Department of Health and Social Care, '[What the coronavirus bill will do](#)', 17 March 2020.

⁸ *ibid.*

- urgent treatment for a mental health disorder and are a risk to themselves or others, to be implemented using just one doctor's opinion (rather than the current two);
- temporarily allow extension or removal of time limits in mental health legislation to allow for greater flexibility where services are less able to respond. These temporary changes would be brought in only in the instance that staff numbers were severely adversely affected during the pandemic period and provide some flexibility to help support the continued safe running of services under the Mental Health Act;
 - allow NHS providers to delay undertaking the assessment process for NHS continuing healthcare for individuals being discharged from hospital until after the emergency period has ended;
 - make changes to the Care Act 2014 in England and the Social Services and Well-being (Wales) Act 2014 to enable local authorities to prioritise the services they offer in order to ensure the most urgent and serious care needs are met, even if this means not meeting everyone's assessed needs in full or delaying some assessments;
 - temporarily relax local authorities' duties in relation to their duties to conduct a needs assessment and prepare an adult carer support plan/young care statement under the Social Work (Scotland) Act 1968, the Children (Scotland) Act 1995, the Social Care (Self-directed Support) (Scotland) Act 2013 and the Carers (Scotland) Act 2016 to enable them to prioritise people with the greatest needs;
 - provide powers to require educational institutions or childcare providers to stay open or relax some requirements around education legislation to help these institutions run effectively during the event of an emergency;
 - enable the Home Secretary to request that port and airport operators temporarily close and suspend operations if Border Force staff shortages result in a real and significant threat to the UK's border security;
 - expand availability of video and audio link in court proceedings;
 - ensure that the Treasury can transact its business at all times, by making it possible for a single commissioner or a single Treasury minister to sign instruments and act on behalf of the commissioners, during a Covid-19 emergency period. Under current rules, where any instrument or act is required to be signed by the commissioners of Her Majesty's Treasury, it must be signed by two or more of the commissioners; and
 - allow temporary judicial commissioners (JCs) to be appointed at the request of the investigatory powers commissioner, in the event that there are insufficient JCs available to operate the system under the Investigatory Powers Act 2016. This is one of the critical pieces of domestic legislation for national security. It creates the statutory basis for the use of the investigatory powers by the intelligence and law enforcement agencies, using warrants issued under the Act.⁹

Containing and slowing the virus

The bill would:

- enable the Government to restrict or prohibit events and gatherings during the pandemic in any place, vehicle, train, vessel or aircraft, any movable structure and any offshore

⁹ Department of Health and Social Care, ['What the coronavirus bill will do'](#), 17 March 2020.

- installation and, where necessary, to close premises;
- provide a temporary power to close educational establishments or childcare providers; and
- postpone the local, mayoral and police and crime commissioner elections that were due to take place in England in May this year until May 2021. Provision will also be made to postpone other electoral events over the course of the year (such as by-elections).¹⁰

Managing the deceased

The bill would:

- mean a coroner is only to be notified where a doctor believes there is no medical practitioner who may sign the death certificate, or that they are not available within a reasonable time of the death;
- introduce powers to enable the provisions under the Burial and Cremation (Scotland) Act 2016 relating to the collection of ashes to be suspended and replaced with a duty to retain until the suspension is lifted, except where family wishes are known;
- expand the list of people who can register a death to include funeral directors acting on behalf of the family;
- enable electronic transmission of documents that currently have to be physically presented in order to certify the registration of a death;
- remove the need for a second confirmatory medical certificate in order for a cremation to take place;
- remove the Coroners and Justice Act 2009 requirement that any inquest into a Covid-19 death must be held with a jury; and
- suspend the referral of certificates to the death certification review service (DCRS) for review in Scotland under the Certification of Death (Scotland) Act 2011.¹¹

Supporting people

The bill would:

- give the Government the power to temporarily suspend the rule that means statutory sick pay (SSP) is not paid for the first three days of work that you miss because of sickness;
- enable employers with fewer than 250 employees to reclaim SSP paid for sickness absences relating to coronavirus during the period of the outbreak; and
- require industry to provide information about food supplies, in the event that an industry partner does not cooperate with our current voluntary information-sharing arrangements during a period of potential disruption.¹²

¹⁰ Department of Health and Social Care, '[What the coronavirus bill will do](#)', 17 March 2020.

¹¹ *ibid.*

¹² *ibid.*

Time limit and parliamentary scrutiny

Clause 75(1) of the bill states that the legislation will expire after a two-year period from the date on which the bill is passed. Clause 75(3) allows a government minister to make “technical transitional, transitory and savings provisions” if necessary, to cover a period beyond the two years.

Clause 76 allows a “relevant national authority” to alter the expiry date for any provision of the bill. The relevant authority is either a minister of the crown or a relevant minister in the devolved nations. The relevant authority can bring the provisions to an end six months earlier or six months later than the two-year period provided for in clause 75.

Clause 83 states that the secretary of state must lay before Parliament a report every two months, beginning on the date the Act is passed, setting out which provisions in part I of the bill are in force.

Clause 84 states that after the one-year status report is laid before Parliament (ie the sixth two-month report provided for in section 83), a minister of the crown must make arrangements for:

- (a) a motion in neutral terms, to the effect that the House of Commons has considered the one-year status report, to be moved in that House by a minister of the crown within the period of 14 Commons sitting days beginning with the day after the end of the sixth reporting period, and
- (b) a motion for the House of Lords to take note of the one-year status report to be moved in that House by a minister of the crown within the period of 14 Lords sitting days beginning with the day after the end of the sixth reporting period.

It has been reported that the Labour Party does not intend to oppose the bill in the House of Commons.¹³ On 18 March 2020, Jeremy Corbyn, the Leader of the Opposition, wrote to the Prime Minister to state his general support for the legislation. However, the letter stated that the House of Commons should be required to vote for the continued enforcement of the bill’s powers every six months after they have come into effect:

People understand the need for temporary restrictions to our way of life. But given how far-reaching these are proposed to be, people’s elected representatives must be able to decide whether to renew the legislation at least every six months, up to its expiration after two years.¹⁴

¹³ BBC News, [‘Legislation to pass without vote amid coronavirus crisis’](#), 17 March 2020.

¹⁴ Jeremy Corbyn, [‘Personal Twitter account’](#), 18 March 2020 (accessed 20 March 2020).

Key information

- Department of Health and Social Care, [‘What the coronavirus bill will do’](#), 17 March 2020

Government guidance summarising the bill’s provisions.

- Department of Health and Social Care, [Coronavirus Bill: Explanatory Notes](#), 19 March 2020

The explanatory notes for the House of Commons version of the bill.

- Department of Health and Social Care, [Coronavirus Bill: Summary of Impacts](#), 19 March 2020

Impact assessment produced by the Department for Health and Social Care. The document stated that “as this is temporary, emergency legislation, a formal impact assessment is not required. [...] However, this document provides an overview of the impacts considered for each clause”.

- House of Lords Library, [‘Coronavirus: emergency legislation’](#), 18 March 2020

Blog post summarising the emergency powers in the [Health Protection \(Coronavirus\) Regulations 2020](#) introduced by the Government on 10 February 2020; the proposed coronavirus bill; and the Civil Contingencies Act 2004.

- UK Parliament website, [‘Covid-19 response scrutinised to ensure human rights are upheld’](#), 19 March 2020

The Joint Committee on Human Rights has launched an inquiry into the human rights implications of the Government’s response to Covid-19. A background paper from the committee can be downloaded as a Word document from the above link. The paper sets out the existing legislative framework which provides the Government with public health emergency powers.

Parliamentary debate, statements and questions

- [Statement by the Secretary of State for Health and Social Care, Matt Hancock, on ‘Covid-19’](#), HC Hansard, 16 March 2020, cols 697–731
- [Statement by the Minister of State at the Foreign and Commonwealth Office, Lord Ahmad of Wimbledon, on the ‘Covid-19 Update’](#), HL Hansard, 17 March 2020, cols 1377–88
- [Debate on ‘Health Protection \(Coronavirus\) Regulations 2020’](#), HL Hansard, 9 March 2020, cols 414–30GC

Press articles and comment

- Greg Heffer, [‘Coronavirus Bill: Emergency laws to contain spread of Covid-19 published’](#), Sky News, 20 March 2020
- Kate Proctor, Peter Walker and Rajeev Syal, [‘Police and health officials to get powers to detain under UK coronavirus bill’](#), Guardian, 19 March 2020

- BBC News, '[Coronavirus: Emergency legislation set out](#)', 19 March 2020
- Ian Dunt, '[Coronavirus bill: The biggest expansion in executive power we've seen in our lifetime](#)', Politics.co.uk, 18 March 2020

Government materials

- Department of Health and Social Care, '[Government outlines further plans to support health and social care system in fight against COVID-19](#)', 8 March 2020
- Department of Health and Social Care, '[Emergency bill to strengthen coronavirus \(Covid-19\) response plans](#)', 17 March 2020

House of Commons Library briefings

- [Coronavirus Bill: Overview](#), 20 March 2020
- [Coronavirus Bill: Managing the deceased](#), 20 March 2020
- [Coronavirus Bill: Emergency powers and national security](#), 20 March 2020
- [Coronavirus Bill: health and social care measures](#), 20 March 2020
- [Coronavirus Bill: What is the sunset clause provision?](#), 20 March 2020
- [Coronavirus Bill: Elections](#), 19 March 2020