

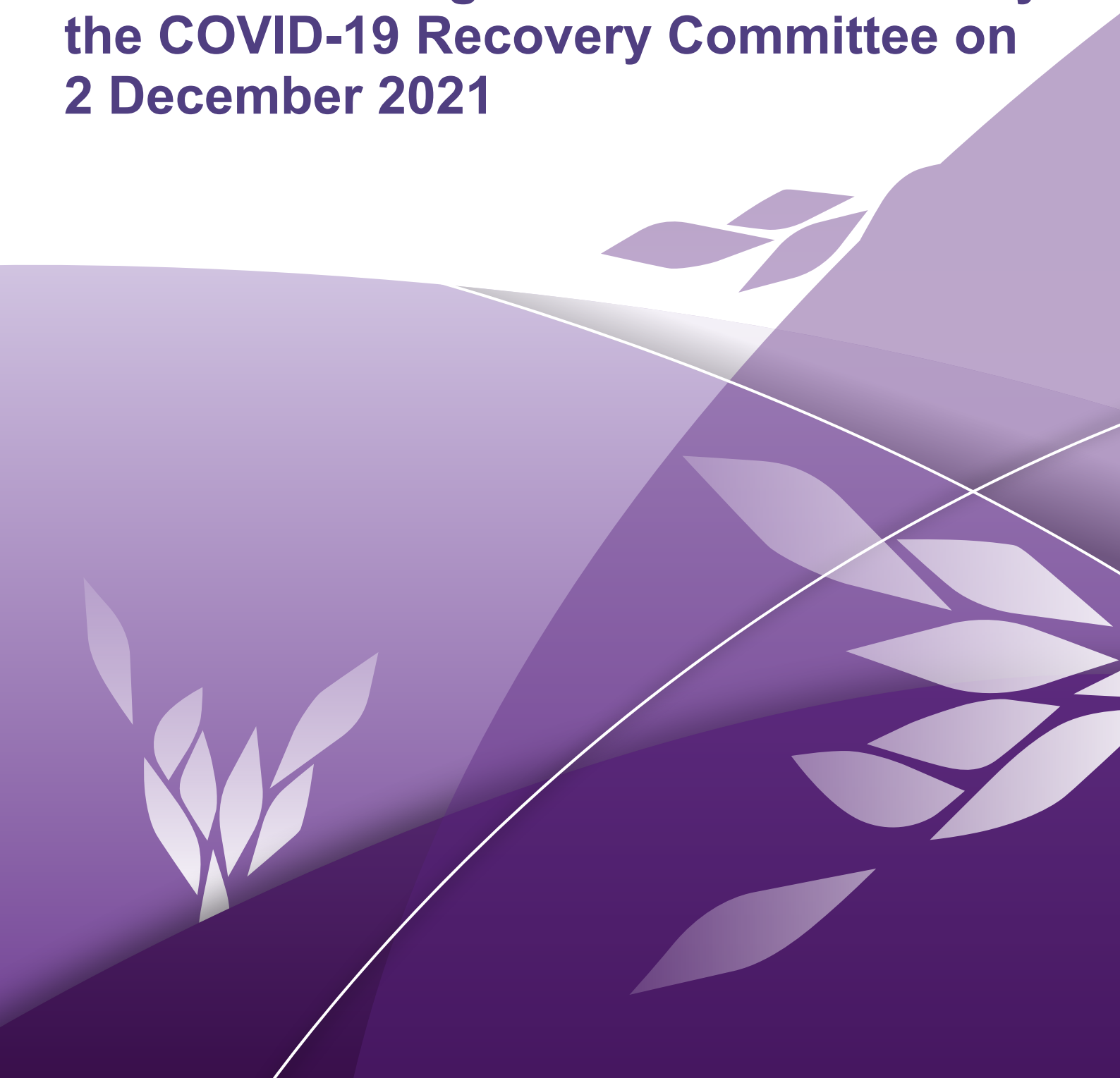


The Scottish Parliament
Pàrlamaid na h-Alba

Published 2 December 2021
SP Paper 55
8th Report, 2021 (Session 6)

COVID-19 Recovery Committee

Subordinate Legislation Considered by the COVID-19 Recovery Committee on 2 December 2021



Published in Scotland by the Scottish Parliamentary Corporate Body.

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COVID-19 Recovery Committee

To consider and report on matters relating to COVID-19 falling within the responsibility of the Cabinet Secretary for COVID Recovery and other Scottish Ministers where relevant, including—

- (a) Cross government coordination of COVID-19 recovery policies and strategic review;
- (b) the operation of powers under the Coronavirus (Scotland) Act, the Coronavirus Act and any other legislation in relation to the response to COVID-19;
- (c) any secondary legislation arising from the Coronavirus (Scotland) Act; and
- (d) and any other legislation or policy in relation to the response to COVID-19.



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Committee Membership



Convener
Siobhian Brown
Scottish National Party



Deputy Convener
Murdo Fraser
Scottish Conservative
and Unionist Party



Jim Fairlie
Scottish National Party



John Mason
Scottish National Party



Alex Rowley
Scottish Labour



Brian Whittle
Scottish Conservative
and Unionist Party

Introduction

1. This report sets out the COVID-19 Recovery Committee's consideration of a Scottish Statutory Instrument (SSI) at its meeting on 2 December 2021. The minutes of the meeting have been published on the Committee's [webpages](#). The Official Report of the meeting will be published on the Committee's [webpages](#) in due course.

The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 4) Regulations 2021 [draft]

2. The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 4) Regulations 2021 [draft] were laid on 29 November 2021. The instrument was made in exercise of the power conferred by paragraph 1(1) of schedule 19 of the Coronavirus Act 2020. The instrument is subject to the affirmative procedure.
3. The [policy note](#) states that—

- ” These Regulations amend the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021 (the ‘Principal Regulations’) to provide that a negative test for Covid-19 is an alternative to vaccination for the purposes of permitted attendance at certain premises.

These Regulations amend the COVID-19 status certification scheme (“the scheme”). These Regulations amend the scheme’s requirements for late night premises and premises where a relevant event is taking place to operate a system for checking that persons on, or seeking to enter, their premises are fully vaccinated against coronavirus or to demonstrate that they are exempt from that requirement. The Regulations amend those requirements to provide that a negative test for coronavirus within the previous 24 hours is an alternative to being fully vaccinated against coronavirus or exempt from that requirement.

The Regulations also make a number of consequential amendments to the provisions for medical exemptions and data protection. In addition, the Regulations provide additional clarity that protests and demonstrations are exempt from the scheme and clarify powers in relation to the inspection of compliance plans

One of the scheme’s objectives when it was first introduced was to increase vaccine uptake. Scottish Ministers’ judgement at the time the scheme was introduced was that it was not appropriate at that time to include a negative test as an alternative to vaccination, but that this would be kept under review.

Vaccine uptake has since increased and Scotland’s vaccination rates, including for boosters, are currently the highest in the UK. Scottish Ministers now consider it proportionate to amend the scheme to include negative test results. The inclusion of negative tests for coronavirus as an alternative to vaccination will help support our strategic objective by incentivising those using the settings covered by the scheme to test regularly and to get a PCR test and self isolate if this is positive. The inclusion of testing will enable those not vaccinated or exempt to use premises covered by the scheme without compromising safety. This reduces the risk of community transmission in all settings frequented by these people, and protects those that they come into contact with in all settings.

The inclusion of negative tests will also provide those who are not able to show that they are fully vaccinated with an alternative means of gaining entry. The means that people currently excluded from the scheme – such as those who have been vaccinated in other countries with a vaccine that is not recognised by the scheme or people who have received a second dose within the last 14 days – can now gain entry if they provide a record of a negative test.

4. The Delegated Powers and Law Reform (DPLR) Committee considered the instrument at its meeting on [30 November 2021](#). The DPLR Committee report was published on [1 December 2021](#). The DPLR Committee made comments on the instrument, which are highlighted in its letter to the Committee on [1 December 2021](#).
5. At the COVID-19 Recovery Committee's meeting on 2 December 2021, the Deputy First Minister and Cabinet Secretary for COVID Recovery, John Swinney MSP,

moved [Motion S6M-02332](#) in his name—That the COVID-19 Recovery Committee recommends that the Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 4) Regulations 2021 [draft] be approved.

6. The COVID-19 Recovery Committee agreed Motion S6M-02332.

