

Equality Impact Assessment
The Health Protection (Coronavirus) (International Travel and Operator Liability)
(Scotland) Amendment (No. 10) Regulations 2021

Introduction

1. The Scottish Government, along with the UK Government and the other Devolved Administrations, introduced emergency public health measures at the UK border, designed to reduce the public health risks posed by Coronavirus (Covid-19) in November 2021. The overarching aim was to ensure that proportionate restrictions were introduced in recognition of an increased risk of imported infections of Covid-19 resulting from the emergence of the Omicron variant, and the potential impact this could have on public health within the UK.
2. [The Coronavirus \(Covid-19\): Framework for Decision-Making](#) published in 2020 made clear that Covid-19 is first and foremost a public health crisis, and the measures to combat it have been necessary to save lives. The Framework identified four main categories of harm: **direct health impacts, non-Covid-19 health harms, societal impacts and economic impacts**. These harms are deeply inter-related: health harms impact on society and the economy, just as the societal and economic effects impact on physical and mental health and wellbeing.
3. In line with the Framework, it was deemed necessary to take the measures as set out below to respond to the pandemic, in order to protect the right to life and the right to health for Scotland's population. However, the unequal impact of the pandemic and the need to advance equality, eliminate discrimination and foster good relations (as per our Public Sector Equality Duty), and take an integrated and balanced approach to ensuring the proportionality of the measures taken, have also been at the forefront of consideration of these actions during this emergency situation.
4. It was also necessary to make and lay the above named regulations urgently in response to the specific and dynamic circumstances as regard international travel to seek to reduce the public health risks posed by Coronavirus (Covid-19) from those travelling to Scotland, in order to reduce the risk of the introduction of new infections of Coronavirus (Covid-19) into the community.

Legislative background

5. The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 and the Health Protection (Coronavirus, Public Health information for Passengers Travelling to Scotland) Regulations 2020 came into force on 8 June 2020.
6. The Health Protection (Coronavirus) (Pre-Departure Testing and Operator Liability) (Scotland) Regulations 2021 generally came into force on 15 January (with some specified provisions coming into force on 1 February 2021).
7. The Regulations named at paragraphs five and six were due to expire on 20 September 2021 and were revoked and replaced by the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 ("the consolidated International Travel Regulations") on that date.

8. The consolidated International Travel Regulations set out requirements for people arriving into Scotland including:-
- to provide particular passenger information before or on arrival into Scotland;
 - to possess a notification of a negative coronavirus (Covid-19) test;
 - to possess a testing package for the detection of coronavirus (Covid-19) before or upon arrival into Scotland and to undertake such tests;
 - to stay in specified premises (e.g. at home) for a specified period upon arrival into Scotland;
 - to stay in managed isolation accommodation for a specified period upon arrival into Scotland.
9. The application of these requirements varies depending on which country outside the Common Travel Area a person has arrived from or travelled through in the 10 days immediately previous, whether any particular exemption is applicable and on the vaccination status of the traveller. It is a criminal offence to fail to comply with the requirements in accordance with the consolidated International Travel Regulations.
10. The consolidated International Travel Regulations also impose related requirements on persons (“operators”) operating commercial services for international passengers travelling to Scotland.
11. The consolidated International Travel Regulations are also time limited and are due to expire on 16 May 2022.

Amendments to the Legislation

12. The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 10) Regulations 2021 (“the No. 10 Regulations”) amend the consolidated International Travel Regulations as follows:

Eligible vaccinated arrivals (which excludes red list arrivals) will now be subject to the following additional requirements:

- a. The option to use a Lateral Flow Device (LFDs) test to meet the requirement for a day 2 test is removed and individuals are now required to use a Polymerase Chain Reaction (PCR) test.
- b. Individuals will be required to self-isolate at a specified address from the time of their arrival until they receive a negative result from their day 2 test. If the result of the day 2 PCR test is positive, the individual will need to isolate for a full 10 days from the date of the positive test result.

Key Findings

13. The Scottish Government has recognised that International Travel restrictions may have both positive and negative impacts on one or more of the protected characteristics.

14. While the view of the Scottish Government is that the No. 10 Regulations are justified and constitute a proportionate means of reducing the public health risks posed by Coronavirus (Covid-19), there is also a need to not only mitigate those negative effects identified but to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people (as per our Public Sector Equality Duty), and the measures we put in place are designed to help do this. Where possible we have sought to mitigate any negative impacts through exemptions in the Regulations.
15. The Scottish Government will continue to review the impact of the measures set out in the consolidated International Travel Regulations and the existing mitigating actions. Additionally, the Scottish Government will continue to consider newly identified evidence, as it relates to each of the protected characteristics and its approach to international travel, and will make further adjustments, as appropriate.
16. All measures are given thorough consideration on the basis of their impact, including on equality and human rights.

Assessing the impacts and identifying opportunities to promote equality

Title of Proposal: Removal of the option of a day 2 Lateral Flow Device (LFD) test for Covid-19 and self-isolation until a negative test result is received for eligible travellers. The test must be a Polymerase Chain Reaction (PCR) test.	
Impact: Eligible vaccinated arrivals will now be required to complete a mandatory day 2 PCR test, removing the option of an LFD test. They will also be required to self-isolate at a specified address from the time of their arrival until they get a negative result from their day 2 test.	
The day 2 test is timed to maximise recovery of positive samples for genomic sequencing and to ensure that variant intelligence is received. This allows for enhanced contact tracing and testing of contacts before the end of the isolation period.	
Differential impacts	<p>Age: Children and Younger People</p> <p>The wider social harms for children have been considered, balanced with protecting overall health (article 24, article 31) of the UNCRC¹. Article 24 states that every child has a right to the highest attainable standard of health, and to health care services that help them to attain this. Governments must provide good quality health care, clean water, nutritious food and a clean environment so that children can stay healthy.</p> <p>Article 31 states that every child has a right to rest and leisure, to engage in play and recreational activities, and to take part in a range of cultural and artistic activities. We recognise the fundamental importance to the realisation of children’s rights and wellbeing and rights to leisure and play (article 31) and freedom of association (article 15).</p> <p>The current pandemic and requirement for self-isolation has the potential to negatively impact all children both directly and as a</p>

¹ [UNCRC summary-1 1.pdf \(unicef.org.uk\)](https://www.unicef.org/uncrc)

	<p>result of the environment around them. They can pick up on cues from their parents who may be stressed or upset. We have continued to ensure that the best interests of the child and their right to the best possible health in line with Articles 3 and 24 have been central to our response to the Coronavirus (Covid-19), and sought to mitigate the negative effects of the measures we have taken wherever we can.</p> <p>Social isolation and loneliness continues to be a growing concern for children and young people in general.² Wider literature suggests that it is the duration of loneliness, rather than its intensity, that is most strongly related to poor outcomes. This may suggest that the self-isolation requirement itself may be unlikely to lead to long lasting negative impacts, although that is not to discount this potentially negative impact. Anxiety and stress appear to be higher in older children (teenagers), and girls in general. The parent club (parentclub.scot) provides support for parents if they are worried about their child’s mental health and for children to access themselves.</p> <p>It is acknowledged that the requirement to be tested before the end of day 2 may negatively impact upon article 12 of the UNCRC which gives children the right to have their views considered. To mitigate against this, children under the age of 11 are exempt from the requirement of day 2 testing, although they can take a test if they wish to do so.</p> <p>Article 10 of the UNCRC says “children and young people should be able to stay in contact with and visit their parents, even if they live in different countries” and “should always be able to enter and leave their own country”. Recognising this, there are no restrictions on children which prevents them visiting parents overseas.</p> <p>The mitigations put in place through exemptions in the regulations, help ensure that the negative effects on younger people are minimised, and the negative effects are not considered disproportionate in the context of the wider benefit of the policy and the regulations’ stated aim of preventing the spread of Coronavirus (Covid-19).</p>
<p>Age: Older People</p>	<p>Measures that may help limit the spread of Coronavirus (Covid-19) are designed to positively affect the entire population, but may particularly benefit older individuals, protecting their health and helping to advance equality of opportunity as it is recognised that Coronavirus (Covid-19) adversely affects older people.</p> <p>However, that is not to say that the measures will not negatively impact on older people. It is recognised that there are well-documented mental health impacts for older people who are lonely,</p>

² [Covid-19: Children, young people and families - June 2020 Evidence Summary \(www.gov.scot\)](https://www.gov.scot/resources/consultations-published/covid-19-children-young-people-and-families-june-2020-evidence-summary/)

	<p>including becoming more susceptible to depression and a greater likelihood of developing clinical dementia.³ Online guidance highlights the availability of support through ready.scot/coronavirus and travellers can contact the National Assistance Helpline on: 0800 111 4000 or Textphone on 0800 111 4114. (Monday to Friday 9am to 5pm) which signpost to mental health and emotional support services.</p> <p>Digital access usually reduces with age. As of 2019, 20% of over-55s in the UK do not own a smartphone⁴ and only 47% of adults aged 75+ use a smartphone to access the internet, compared to 98% of 16-24 year olds.⁵ The change to the day 2 PCR test may be more straightforward to the older age groups, if digital accesses and digital literacy are issues, as there is no need to upload photographic evidence of the test.</p> <p>We have looked to mitigate against any negative effects through the regulations and they are not considered disproportionate in the context of the wider benefit of the policy and the regulations' stated aim of preventing the spread of Coronavirus (Covid-19).</p>
<p>Sex: Men and Women</p>	<p>The Measures designed to limit the spread of Coronavirus (Covid-19) are designed to positively affect the entire population regardless of sex by reducing the risk of infection.</p> <p>If the traveller is not an eligible vaccinated arrival (and not a red list arrival), they are required to self-isolate at a specified address for a period of 10 days, with a negative day 8 test result. For eligible vaccinated arrivals, they are now required to self-isolate at a specified address until they have received a negative day 2 test result.</p> <p>Women who are in self-isolation with a partner may need additional support for a number of reasons. The police recorded 60,641 incidents of domestic abuse in 2018-19⁶. Where gender information was recorded, around four out of every five incidents of domestic abuse in 2018-19 had a female victim and a male accused. They are far more likely to report experiencing domestic abuse, as are younger people (16-24), and those living in the most deprived areas. Data from England and Wales also suggests that women of mixed ethnicity, disabled women and those who lived in a single-parent household are more likely to report experiencing domestic abuse.⁷</p>

³ [A Fairer Scotland for Older People: framework for action - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/a-fairer-scotland-for-older-people/framework-for-action/pages/11.aspx)

⁴ Deloitte (2019). [Global Mobile Consumer Survey: UK cut. Plateauing at the peak: the state of the smartphone](https://www.deloitte.com/uk/en/issues/digital/global-mobile-consumer-survey-uk-cut-plateauing-at-the-peak-the-state-of-the-smartphone.html). UK-representative sample (n = 4,150).

⁵ Scottish Government (2019). [Scotland's People Annual Report](https://www.gov.scot/publications/scotland-people-annual-report/pages/11.aspx).

⁶ [Domestic abuse: statistics 2018-2019 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/domestic-abuse-statistics-2018-2019/pages/11.aspx)

⁷ [Large+Read+Executive+Summary+Covid+and+Equality+Scotland.pdf \(www.gov.scot\)](https://www.gov.scot/publications/large-read-executive-summary-covid-and-equality-scotland/pages/11.aspx)

	<p>⁸To mitigate these risks, existing measures are in place to support those affected by domestic abuse or sexual violence.</p>
Race	<p>Early in the Coronavirus (Covid-19) crisis, evidence emerged at UK and international level that suggested some minority ethnic groups may be disproportionately impacted by Coronavirus (Covid-19), both in terms of immediate, adverse health outcomes and in a wider context, including economically. As a response to this, the Scottish Government convened an Expert Reference Group on Coronavirus (Covid-19) and Ethnicity (the ERG) in June 2020, with a remit to consider, inform and contribute to the Scottish Government’s emerging approach, and to advise on proposed actions to mitigate the harms felt by minority ethnic people and communities in relation to Coronavirus (Covid-19). The group presented a series of recommendations to the Scottish Government, which were published in August 2020 and the Scottish Government.⁹ The Scottish Government has subsequently published a response to these recommendations and further to this, the Scottish Government has presented the ERG with a timeline for the implementation of these recommendations over the coming months as we recover from the pandemic.¹⁰</p> <p>Analysis by National Records of Scotland published in July 2020 showed that deaths amongst people in the South Asian ethnic group were more likely to involve Coronavirus (Covid-19) than deaths in the White ethnic group, (after accounting for age group, sex, area-level deprivation and urban rural classification) and that there was no evidence of a significant difference for the other minority ethnic groups analysed.¹¹</p> <p>The overall impact of these regulations on different ethnic groups should be positive. Regulations which seek to prevent the spread of the virus should benefit those ethnic groups who have been particularly affected by Coronavirus (Covid-19).</p>
Religion & Faith	<p>Consideration has been given to the impact of these regulations on individuals’ religion and beliefs. It is accepted that self-isolation means that people may not be able to enter their places of worship. However many faith and belief communities continue to provide online worship services. This will help eliminate discrimination and advance equality of opportunity to allow people to continue to practice their faith.</p>

⁸ [The Health Protection \(Coronavirus\) \(International Travel\) \(Managed Accommodation and Testing\) \(Scotland\) Regulations 2021 \(legislation.gov.uk\)](#)

⁹ [Expert Reference Group on Covid-19 and Ethnicity: recommendations to Scottish Government - gov.scot \(www.gov.scot\)](#)

¹⁰ [Expert Reference Group on Covid-19 and Ethnicity: response to recommendations - November 2020 - gov.scot \(www.gov.scot\)](#)

¹¹ [Report \(nrscotland.gov.uk\)](#)

<p>Disability</p>	<p>Regulation 13(2) of the consolidated International Travel Regulations provides that a person with a disability who is unable when booking the testing package to provide the relevant notification and information to the test provider unaided, is to be assisted on their behalf by another person. Regulation 30 of the consolidated International Travel Regulations also provides that it is a reasonable excuse for contravening the requirements to book and undertake a test if it is not reasonably practicable for a person to do so due to a disability.</p> <p>As with age, digital access and digital literacy is a key consideration. Glasgow Disability Alliance reports that 60% of their members do not have digital access.¹² While disabled people may have a smartphone, it may be too old to support certain apps.^{13/14} A disabled person may choose not to update their phone to support apps as the one they have meets their accessibility needs. Therefore, a solely phone based photo verification would disproportionately negatively impact disabled people. In order to mitigate this, individuals can use a computer to submit their photo, using the computer camera.</p> <p>The day 2 PCR test is therefore more straightforward and beneficial to those in the disabled group as they do not need to be concerned over the need to take a photo under the LFD test although it was always possible to take a PCR test under the previous testing arrangements.</p>
<p>Sexual Orientation</p>	<p>The UK Government Equalities LGBT Survey in 2017 reported that 29% of LGBT people had experienced an incident in the previous 12 months involving someone they lived with because they were LGBT.¹⁵ There may, therefore, be a negative impact on some LGBT people who have to self-isolate at a specified address with family members, including as a result of their sexual orientation.</p> <p>The Scottish Government’s Coronavirus (Covid-19) guidance on health and wellbeing, including for individuals feeling anxious or depressed, is again designed to provide assistance, while Ready Scotland’s additional support page also provides links to support and guidance for anyone struggling with their mental health and wellbeing.¹⁶</p>

¹² Glasgow Disability Alliance. [GDA Connects](#)

¹³ Ada Lovelace Institute (March 2021). [The Data Divide: Public attitudes to tackling social and health inequalities in the COVID-19 pandemic and beyond.](#)

¹⁴ Office for National Statistics (8 March 2021). [Coronavirus and vaccine hesitancy, Great Britain](#)

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/722314/GEO-LGBT-Survey-Report.pdf

¹⁶ [Coronavirus \(Covid-19\): one to one support and support groups - gov.scot \(www.gov.scot\)](#)

	It is considered that these regulations do not disproportionately impact on the person(s) sexual orientation and potential negative impacts are mitigated by the support available through online guidance.
Marriage and Civil Partnership	We have not identified any impacts of the regulations for this protected characteristic. There are no exemptions in the regulations for participating in, or attending a marriage or civil partnership, but this is not considered disproportionate in the context of the stated aim of these regulations; namely preventing the spread of the virus.
Pregnancy and Maternity	We recognise that some pregnant mothers may need medical treatment during their self-isolation period. The regulations provide for a defence of leaving self-isolation in exceptional circumstances such as to seek medical assistance or to access critical public services. ¹⁷
Gender Reassignment	We are not aware of any evidence that suggests the imposition of restrictions will create any particular inequalities for this protected characteristic.
Socio-economic disadvantage	It is accepted that the previous requirements in relation to tests benefited travellers who had difficulty paying for PCR tests. The current estimated cost for a day 2 PCR test is between £29-£65. Given that these tests have to be returned to a lab for testing, they are more expensive than LFDs. However a hardship policy is in place for those who may experience financial problems as a result of having to take the PCR test. These disadvantages are also offset by the overall intention of reducing the spread of Coronavirus (Covid-19), which has a disproportionate impact on socio-economically disadvantaged groups across all four “harms”.
Mitigating actions: We will continue to consider newly identified evidence, as it relates to each of the protected characteristics, and will make further adjustments, as appropriate.	

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations			X	No evidence of a differential impact

¹⁷ [The Health Protection \(Coronavirus\) \(International Travel\) \(Managed Accommodation and Testing\) \(Scotland\) Regulations 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

				identified at this time.
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Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations			X	No evidence of a differential impact identified at this time.

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations			X	No evidence of a differential impact identified at this time.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.

Promoting good relations			X	No evidence of a differential impact identified at this time.
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Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations			X	No evidence of a differential impact identified at this time.

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations			X	No evidence of a differential impact identified at this time.

Do you think the policy impacts on people because of their marriage or civil partnership?¹⁸

Marriage and Civil Partnership	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential

¹⁸ The PSED does not apply to the protected characteristic of marriage and civil partnership <https://www.gov.uk/guidance/equality-act-2010-guidance>

				impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations			X	No evidence of a differential impact identified at this time.

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations			X	No evidence of a differential impact identified at this time.

Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: The Equality Act 2010 uses the term ‘transsexual people’ but ‘trans people’ is more commonly used, although it may include a wide range of people not covered by the Act).

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations			X	No evidence of a differential impact identified at this time.

Do you think that the policy impacts on socio-economics?

Socio-Economics	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations			X	No evidence of a differential impact identified at this time.

Assessing the impacts

Conclusion

17. The provisions in the No. 10 Regulations are intended to balance the restrictions necessary to protect people from the potential direct harms to health from importation of new variants of Covid19, with the unintended potential harms the restrictions may have on isolation, wellbeing and the economy.
18. Whilst the view of the Scottish Government is that the No.10 Regulations are justified and a proportionate means of reducing the public health risks posed by coronavirus (Covid-19), there is also a need to balance the approach with the obligations set out in the Public Sector Equality Duty. The measures put in place via the No. 10 Regulations are designed to help do this.
19. The Scottish Government will continue to keep the consolidated International Travel Regulations under review.