

Equality Impact Assessment
The Health Protection (Coronavirus) (International Travel) (Scotland)
Amendment (No. 17) 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), by limiting the further spread of the disease.
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. We have made much progress tackling the COVID-19 pandemic in Scotland. The success of the vaccination programme has allowed us to reduce the direct harm of the virus and has also enabled us to re-open large parts of the economy and society.
4. Now that the direct health harms caused by the virus are reducing, the broader harms of the crisis grow relatively more important in our decision-making. Consequently, reflecting the success of the vaccination programme, we believe we are now at a stage of the pandemic where we can adjust our strategic intent from suppressing the virus to the lowest possible level and keep it there, while we strive to return to a more normal life for as many people as possible to one where we work to suppress the virus to a level consistent with alleviating its harms while we recover and rebuild for a better future'.

Legislative background

5. The Regulations amend the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (the “International Travel Regulations”).
6. Since the introduction of the International Travel Regulations, the Passenger Information Regulations there have been various amendments to these measures. Prior to the No. 17 amendment Regulations being made, the Regulations have the following provisions (subject to certain exemptions) in place:

Passengers - All international travellers arriving at the UK border in Scotland from outside the Common Travel Area (or within it if they have been outside of it in the previous 10 days prior to arrival) are required to:	
Passenger Locator Form	provide journey details, contact details and details of their intended onward travel, in order to support “contact tracing”,
Pre-Departure Testing (PDT)	possess a negative Coronavirus (Covid-19) Pre-Departure Test (PDT).

Passengers - The application of the requirements noted below depend on where an arrival into Scotland has travelled from or transited through within the previous 10 days prior to arrival	
Red List Arrivals¹	book into a managed self-isolation facility. Passengers, to whom this requirement applies, may only enter Scotland at one of Aberdeen, Edinburgh or Glasgow Airport, or a military airfield or port and, on arrival into Scotland, are required to travel directly to managed self-isolation accommodation using designated transport and to remain in that accommodation for a minimum 10 day period. They are also required to book and undertake two tests for the detection of Coronavirus (Covid-19) within 2 days and no earlier than day 8 of the self-isolation period.
Vaccinated Amber List Arrivals²	Book and undertake a Coronavirus (Covid-19) test within 2 days of arriving in Scotland. Travellers from the Amber list countries who are 'eligible vaccinated arrivals' ³ (meaning they have had their final dose of a COVID-19 vaccine through approved sources , at least 14 days before they arrive in Scotland are not required to self-isolate if they have been vaccinated in the UK (including as part of UK vaccine rollout overseas), EU member states, European Free Trade Association (EFTA) countries (Iceland, Liechtenstein, Norway and Switzerland), Andorra, Monaco, San Marino and Vatican City and the USA.
Amber List Arrivals	isolate at home or in the place they are staying for 10 days and they are also required to book and undertake two tests for the detection of Coronavirus (Covid-19) within 2 days and no earlier than day 8 of the self-isolation period if they are not fully vaccinated
Green List Arrivals⁴	to book and undertake a Coronavirus (Covid-19) test to take within 2 days of arriving in Scotland. On arrival in Scotland, travellers do not need to isolate unless the test they have taken on day two after arriving back in Scotland is positive.
Carriers - Operators of commercial transport services for passengers travelling to Scotland from outside the Common Travel Area are required to ensure that passengers who arrive in Scotland:	
Public Health Information	have been provided with certain public health information.

¹ A red list arrival refers to a person who arrives in Scotland from, or having travelled through within the previous 10 days, an acute risk country or territory specified in schedule A2 of the International Travel Regulations.

² An amber list arrival refers to a person who arrivals in Scotland from, or having travelled through within the previous 10 days, a country or territory which is not in the common travel area and which is not a red list country or (only) a green list country.

³ The reference to an 'eligible vaccinated arrival' also captures certain persons who have participated in, or are participating in, a clinical trial for an authorised vaccine; a child who is ordinarily resident in the UK or a relevant country and a dependent of someone who has completed a course of vaccine under the UK overseas vaccine roll-out programme.

⁴ A green list arrival refers to a person who arrives in Scotland from outside the travel area, having only travelled from or through within the previous 10 days, an exempt country or territory specified in schedule A1 of the International Travel Regulations.

Passenger Locator Form (PLF)	have completed a Passenger Locator Form (PLF)
Pre-Departure Testing (PDT)	possess notification of a negative PDT result
Vaccination Status	Have evidence of double vaccination status where this is required

7. There are safeguards built into the International Travel Regulations and, in accordance with the approach taken to the wider Covid-19 measures, a review of the need for the requirements imposed by the Regulations must take place at least once every 28 days with Ministers assessing that there remains a requirement for these requirements to remain in place.
8. All measures contained in the principal Regulations are also time limited and due to expire on 20 September 2021.

Amendments to the Legislation

9. The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 17) Regulations 2021. amend the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 by:-
- the International Travel Regulations provide that Covid-19 2 day and 8 day tests must be carried out by public providers i.e. by the NHS in Scotland, England and Wales, and Northern Ireland. These amendments (regulations 3 and 4) open up those tests to private sector test providers, provided they are on a UK Government published list of 2 day and 8 day test providers for persons arriving in England. To get on the list, the providers must self-declare compliance with relevant regulations and DHSC guidance. The listed providers are also monitored by DHSC for compliance and if in default removed from the list.
 - The International Travel Regulations also provide that travellers to Scotland must stay in specified premises. These amendments (regulations 5 to 7) amend an exception for seasonal agricultural workers in paragraph 37 of schedule 2 of the International Travel Regulations. The Regulations make clear that those to whom the exemption applies must self-isolate at the named farm where they will be working after arrival in Scotland. The exemption allows such people to work straight away, although they must isolate on the named farm for 10 days. The testing regime for these workers includes day 2 and 8 testing which is done by tests being provided directly to farmers at no cost to the workers. The amendment makes clear that they can also stay at specified alternative accommodation, subject to the same restrictions.

Key Findings

10. The Scottish Government has recognised that International Travel restrictions may have both positive and negative impacts on one or more of the protected characteristics. The Impacts of managed self-isolation for Red list arrivals were

assessed at its introduction and [published here](#) and the impacts for vaccine certification and Amber list arrivals has also been [published](#).

11. While the view of the Scottish Government is that these 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 the Regulations.
12. The Scottish Government will continue to review existing mitigating actions and impacts. We will continue to consider newly identified evidence, as it relates to each of the protected characteristics, and will make further adjustments, as appropriate.
13. 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: Allowing travellers arriving from amber and green countries to purchase private sector tests for their day 2 and day 8 testing packages.		
Impact: These regulations will allow for persons arriving in Scotland from a country or territory which is not an acute risk country or territory (“red” list country), and who have not within the preceding 10 days departed from or transited through a red list country or territory, to be able to use private sector tests for their day 2 and day 8 tests.		
Differential impacts	Age: Children and Younger People	An exemption already exists for children aged 10 and under, arriving into Scotland from green and amber list countries from undertaking the day 2 and day 8 tests. We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
	Age: Older People	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
	Sex: Women	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
	Sex: Men	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
	Race	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.

Religion & Faith	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
Disability	<p>An exemption already exists for individuals arriving into Scotland who are unable practically to undertake a test due to a disability. The Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (legislation.gov.uk)</p> <p>This policy could benefit people who have a disability as it may increase the choices of tests that are available. Some tests, such as saliva tests, are non-invasive and may be more suitable for people who have sensory difficulties, for example. Chronomics – the preferred supplier of TUI offer saliva tests.</p>
Sexual Orientation	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
Marriage and Civil Partnership	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
Pregnancy and Maternity	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
Gender Reassignment	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
Socio-economic disadvantage	This policy could benefit travellers who cannot afford to pay for the existing testing packages. Currently, the cost of tests is £68 for a day 2 test and £136 for day 2 and 8 tests. Private sector tests can be significantly cheaper for travellers, some averaging around £40 for day 2 and £80 for days 2 and 8.
Mitigating actions:	

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 among and between			X	No evidence of a differential impact identified at this time.

different age groups				
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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			
Promoting good relations among and between disabled and non-disabled people			X	No evidence of a differential impact identified at this time.

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 between men and women			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			X	No evidence of a differential impact identified at this time.

and victimisation				
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 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 on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
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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 race 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.

Do you think the policy impacts on people because of their marriage or civil partnership?⁵

Marriage and Civil Partnership	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.

⁵ The PSED does not apply to the protected characteristic of marriage and civil partnership
<https://www.gov.uk/guidance/equality-act-2010-guidance>

Assessing the impacts and identifying opportunities to promote equality

Title of Proposal - Seasonal Agricultural workers: The Covid-19 testing programme was extended to approximately 9,500 seasonal agricultural workers who arrived in the UK to work in Scottish farms from late March 2021 onwards. These workers came to provide support in edible horticulture vital to our food supply chain. Whilst as detailed below they come from outwith the CTA so would fall within the provisions of the International Travel Regulations as regards isolation and testing, given their vital contribution it was also decided in practice to extend the domestic testing programme (with free tests) to them to ensure adequate public health protection.

The necessary quantity of Covid-19 testing kits, based on the number of anticipated workers arriving, have been requested by the farm for workers to conduct a Covid-19 test on days 2 and 8 of their isolation period. These are issued via a number of central distribution centres (to ensure provision of further test kits as required) established throughout the country in appropriate areas to ensure no excessive travel distances are required. Appropriate monitoring of this regime is undertaken.

A small but significant number of these workers are not isolating on the 'named farm' where they have the offer of employment for seasonal work. This is due to insufficient accommodation for the workers on the farm and accordingly the employers of these seasonal agricultural workers are organising and supervising accommodation for the workers which is separate to the farm. In this accommodation the employer ensures that the workers are provided with food, isolate and complete their required Covid-19 tests in line with current regulations. In such circumstances, the workers are not self-isolating on the named farm throughout their 10-day period of isolation but are effectively isolating to the same standards as any amber list arrival who does not have a sectorial exemption. The amendments allow for this practice.

Impact: This could have a direct effect on the farmers who employ the workers as they should be supporting their employees through this process. This could involve provision of accommodation as well as testing kits, registering and collecting of the testing kits and returning them for analysis, assisting with obtaining/understanding of results and the next steps necessary depending on the result which may include signposting to relevant helplines and other resources.

This will also affect the workers themselves as the time spent taking the test may be unpaid. They will now be required to complete 2 tests during the 10 day isolation on farm. They may be expected to remain within their accommodation during this time and unable to mix with others outside of it. Depending on the results of their test they may be required to self-isolate for a period of time, this could have more of a significant impact than unpaid testing time. Farmers have clarified that they will provide support if this is the case.

As a further method of support guidance has been created to assist both farmers and workers through the testing process – this includes written guidance on how to take the test, interpret your results and a ‘how to’ video. This has been translated into 8 different languages, which were identified as ones which the majority of workers would benefit from based on the countries from which they were coming.

For any other translation issues that arise or support that is required (for instance in understanding their test results, self-isolation or money worries), workers can utilise the Royal Scottish Agricultural Benevolent Institution (RSABI) helpline which is available 7 days a week from 07.00 till 23.00.

There is little to no effect on the general public as the seasonal workers will be carrying out their isolation period on farm or in accommodation provided by the farm. The testing process we are implementing should reduce the risk of spreading Covid-19 within the local communities and the transmission of possible variants. There is capacity within the laboratories for these tests at the moment so this shouldn’t put any hold up on the general public receiving their test results either.

What might prevent the desired outcomes being achieved?

- Lack of knowledge / last minute information on workers and where they are going.
- Employers’ failure to comply – non-collection of kits, non-reporting of kits for example.
- Employees’ failure to comply – ignoring positive test results and failure to isolate for example.
- A lack of test kits / delay in testing results due to a 3rd wave.

Differential	Age: Children and Younger People	Farms don’t employ anyone under the age of 18. As this is referring to people of working age there are no impacts identified for this group.
	Age: Older People	<ol style="list-style-type: none"> 1. From the workers we have confirmed so far the average age is 30, oldest born in 1962 the youngest born 2002 2. 19 yrs - 60 yrs

	<p>3. 18 to 65</p> <p>Given the nature of the activities being undertaken by this group in terms of employment for seasonal work to carry out specified activities in edible horticulture and the requirement for physical activity there may be limited impact on this group.</p>
Gender	<ol style="list-style-type: none"> 1. Workers booked for arrival this season so far 25% female 75% male. We would normally have more even split, however, we are relying on agencies recruiting whoever is interested. 2. 58% M, 42% F 3. 2144 (55.62%) male and 1711 (44.38%) female <p>Measures that may help 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>
Race	<p>The majority were found to be Romanian, Bulgarian, Polish and Ukrainian so far.</p> <p>Early in the Coronavirus (Covid-19) crisis, evidence emerged at UK and international levels 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.</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 race groups who have been particularly affected by Coronavirus (Covid-19).</p>
Religion & Faith	<p>Most were identified to be Orthodox Christian, Catholic or Muslim.</p> <p>We have not identified any impacts of the Regulations for this protected characteristic.</p>
Disability	<p>Given the nature of the activities being undertaken by this group in terms of employment for seasonal work to carry out specified activities in edible horticulture and the requirement for physical activity there may be limited impact on this group.</p>
Sexual Orientation	<p>Farms have been provided with no indication of this so far.</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. Provisions in the Regulations allow individuals to leave their household to seek medical assistance; to access</p>

	public services (including social services or victims' services) where access to the service is critical to the person's well-being, and the service cannot be provided if the person remains at their accommodation, and to avoid injury, illness, or to escape the risk of harm. These provisions may help to lessen any potential negative impacts on people as a result of their sexual orientation.
Marriage and Civil Partnership	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	Farms have been given no indication that there are any pregnant workers so far.
Gender Reassignment	Farms have been provided with no indication of this so far.
Socio-economic disadvantage	Although we are unable to confirm whether all workers will have their own mobiles, workers will be provided with access to a computer or mobile device by the farmers in order to comply with the testing requirements and access their results and so they can contact family in their home country if necessary. Similarly we cannot confirm that Wi-Fi will be readily available at all farms, however it is likely to be available in many cases.
Mitigating actions: The Scottish Government recognises that these measures are only required to respond to the current set of circumstances, and are only necessary as long as the potential public health benefits can justify any negative impacts caused. 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 identified at this time.

among and between different age groups				
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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 among and between disabled and non-disabled people			x	No evidence of a differential impact identified at this time.

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 between men and women			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			x	No evidence of a differential impact identified at this time.

discrimination, harassment and victimisation				
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 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 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 race 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.

Do you think the policy impacts on people because of their marriage or civil partnership?⁶

Marriage and Civil Partnership	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.

Conclusion

⁶ The Public Sector Equality Duty only applies, under section 149(1) of the Equality Act 2010, to the protected characteristic of marriage and civil partnership in relation to eliminating discrimination etc. relating to work under Part 5 of that Act - <https://www.gov.uk/guidance/equality-act-2010-guidance>

The provisions in these Regulations are intended to balance the restrictions necessary to protect people from the direct harms to health from importation of new variants of Covid-19, with the unintended potential harms the restrictions may have on wellbeing and the economy.

However, no potential indirect negative impacts on one or more of the protected characteristics have been identified. Whilst the view of the Scottish Government is that these Regulations are justified and a proportionate means of reducing the public health risks posed by Covid-19, there is also a need to not only mitigate any negative effects identified but to eliminate discrimination, advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not, and the measures we have put in place are designed to help do this.

The Scottish Government will continue to keep the Regulations under review.