

**Equality Impact Assessment**  
**The Health Protection (Coronavirus) (International Travel and Operator Liability)**  
**(Scotland) Amendment (No. 6) 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 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 above Regulations 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. The 2021 Regulations consolidated the provisions in the Regulations being replaced.

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 test;
  - to possess a testing package for the detection of coronavirus 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 a person's vaccination status, which country outside the Common Travel Area a person has arrived from or travelled through, as well as whether any particular exemption is applicable. It is a criminal offence to fail to comply with the requirements in accordance with the Regulations.
10. The 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. 6) Regulations 2021 amend the consolidated International Travel Regulations by:
- updating the countries included in the red list for the purposes of testing and isolation requirements. Removing the remaining seven countries from the red list is a positive step to opening international travel by removing restrictions previously placed on travellers?
  - expanding the list of countries from where a person vaccinated with an authorised vaccine may be an eligible vaccinated arrival and the proof needed for this. Expanding the list of countries from where a person vaccinated with an authorised vaccine may be an eligible vaccinated arrival and the proof needed for this has been assessed when the policy was first introduced and reassessed as the policy was developed and more countries were added to the list. These will be available to view [here](#).
  - introducing a further option for eligible vaccinated travellers, arriving from non-red list countries and territories, to allow them to complete their mandatory Day 2 test using a Lateral Flow Device (LFD) test, as an alternative to a Polymerase Chain Reaction (PCR) test.

### **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. The Impacts of managed self-isolation for Red list arrivals were assessed at its introduction and [published here](#).

14. The overall impact of the removal of countries from the Red List is positive as it opens up international travel and removes the requirement to enter managed quarantine for all travellers, although there are risks of importation of new and existing variants of the virus in doing so. The provisions in the regulations in regards to testing and vaccination status help to protect public health whilst making travelling more accessible.
15. The impact of introducing a further option for eligible travellers, arriving from non-red list countries and territories, to allow them to complete their mandatory Day 2 test using an LFD test, as an alternative to a PCR test is assessed in this document.
16. 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.
17. 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.
18. 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**

<b>Title of Proposal:</b> To relax the day two testing for fully-vaccinated travellers arriving from non-red list countries by allowing the use of Lateral Flow Devices (LFD).		
<b>Impact:</b> These regulations allow for persons arriving in Scotland who have not within the preceding 10 days departed from or transited through an acute (a “red” list country) to be able to use a Lateral Flow Device (LFD) test for their day 2 test. This is providing that they are “fully vaccinated” at least 14 days since they have received their final dose of an approved Covid-19 vaccine from a country on the approved list (full details can be found on the <a href="#">Scottish Government website</a> ). Travellers are then required to submit a photograph of their result to their provider to verify their result. If positive, they will receive a confirmatory PCR test.		
<b>Differential impacts</b>	<b>Age: Children and Younger People</b>	An exemption already exists for children aged under 11, arriving into Scotland from undertaking the day 2 test. We are not aware of any evidence that suggests this easing of requirements will create any particular inequalities for this protected characteristic.
	<b>Age: Older People</b>	Digital access usually reduces with age. As of 2019, 20% of over-55s in the UK do not own a smartphone <sup>1</sup> and only 47% of adults

<sup>1</sup> Deloitte (2019). [Global Mobile Consumer Survey: UK cut. Plateauing at the peak: the state of the smartphone](#). UK-representative sample (n = 4,150).

	<p>aged 75+ use a smartphone to access the internet, compared to 98% of 16-24 year olds.<sup>2</sup> Therefore, a solely phone based photo verification would disproportionately negatively impact older people. In order to mitigate this, individuals can also upload a photo taken with a digital camera. Full instructions are provided with each test sold.</p> <p>There also remains the option for travellers to purchase a (Polymerase Chain Reaction) PCR test, which is sent to a laboratory for processing so has no requirement for photo verification. It is noted, these on average are around £25 more expensive per test.</p>
<b>Sex: Women</b>	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
<b>Sex: Men</b>	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
<b>Race</b>	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
<b>Religion &amp; Faith</b>	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
<b>Disability</b>	<p>Regulation 13(2) of the Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Regulations 2021 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, can be assisted on their behalf by another person. Regulation 30 of these 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 is a key consideration. Glasgow Disability Alliance reports that 60% of their members do not have digital access.<sup>3</sup> While disabled people may have a smartphone, it may be too old to support certain apps.<sup>4/5</sup> 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>There also remains the option for travellers to purchase a (Polymerase Chain Reaction) PCR test, which is sent to a laboratory for processing so has no requirement for photo</p>

<sup>2</sup> Scottish Government (2019). [Scotland's People Annual Report](#).

<sup>3</sup> Glasgow Disability Alliance. [GDA Connects](#)

<sup>4</sup> Ada Lovelace Institute (March 2021). [The Data Divide: Public attitudes to tackling social and health inequalities in the COVID-19 pandemic and beyond](#).

<sup>5</sup> Office for National Statistics (8 March 2021). [Coronavirus and vaccine hesitancy, Great Britain](#)

	verification. It is noted as above that there is an additional cost for these however.
<b>Sexual Orientation</b>	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
<b>Marriage and Civil Partnership</b>	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
<b>Pregnancy and Maternity</b>	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
<b>Gender Reassignment</b>	We are not aware of any evidence that suggests this easing of restrictions will create any particular inequalities for this protected characteristic.
<b>Socio-economic disadvantage</b>	This policy could benefit travellers who cannot afford to pay for the existing testing packages.  Current estimates are £25-£30 for an LFD test, compared with £55-£65 for a PCR.
<b>Mitigating actions:</b> Travellers are still able to purchase a PCR tests, if they do not have access to the required digital technologies.	
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.

#### 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.
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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 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 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 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?<sup>6</sup>**

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.
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**

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 Covid19, with the unintended potential harms the restrictions may have on isolation, wellbeing and the economy.

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 coronavirus, 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, and the measures we have put in place are designed to help do this. Allowing travellers to still purchase PCR tests allow for travellers who do not have access to digital technologies, is the mitigating factor. It is noted, as earlier in this assessment, that there is a difference in cost between lateral flow tests and PCR of around £25 per test.

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

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<sup>6</sup> The PSED does not apply to the protected characteristic of marriage and civil partnership <https://www.gov.uk/guidance/equality-act-2010-guidance>