

**Equality Impact Assessment**  
**The Health Protection (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 12) 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 Coronavirus (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 in response to the changing epidemiological picture of COVID-19 internationally, particularly the emergence of the 'Omicron' variant. The purpose of the Regulations is to seek to reduce the public health risk posed by importation of the 'Omicron variant' of Coronavirus (Covid-19) from people travelling to Scotland, which may then result in transmission of Omicron variant within Scottish communities.

## **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 specific people arriving into Scotland, dependent on their travel history in the 10 days immediately prior to arrival, including:-
  - to provide particular passenger information before or on arrival into Scotland;
  - to possess a notification of a negative Coronavirus (Covid-19) test taken prior to departure;
  - to possess a testing package for the detection of Coronavirus (Covid-19), acquired before or upon arrival into Scotland and to undertake the specified tests included in that package;
  - 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 prior to their arrival into Scotland; 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 set out in the consolidated International Travel Regulations, unless the traveller has a “reasonable excuse” for not complying.
10. The consolidated International Travel Regulations also impose related requirements on persons (“operators”) operating commercial services for passengers travelling to Scotland from points of departure outside of the Common Travel Area.
11. The consolidated International Travel Regulations are 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. 12) Regulations 2021 amend the consolidated International Travel Regulations as follows:
  - From 04:00 7 December 2021, all international direct and indirect arrivals (unless subject to an occupational exemption) into Scotland regardless of port of departure and vaccination status, will be required to have taken a Pre-Departure Test (PDT) for Coronavirus (Covid-19) no more than two days prior to their scheduled time of departure and to have provided a certified negative result before travel (unless subject to an occupational exemption).
  - The Regulations reduce the timeframe within which the test must be taken from 3 days to 2 days and set out how this time period is calculated.

- The Regulations re-introduce PDT for eligible vaccinated arrivals from non-red list countries
- The Regulations extend the requirement to all children aged 12 years and over (which is different to the requirements for day 2 and 8 testing which apply to children aged 11 years and over).
- Previously, children (defined as under 18) were exempt from the requirement to possess a negative test notification unless they were travelling with an adult. Now children aged 12 years and over (whether travelling with adults or not) must have proof of a negative result.
- No changes have been made via these Regulations in relation to other testing and isolation requirements and travellers should also continue to comply with the wider obligations set out in the International Travel Regulations.
- Changes are also made to carrier obligations via these Regulations as a result of the implementation of the above changes.

## **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 Regulations are necessary and justified and constitute a proportionate means of reducing the public health risks posed by Coronavirus (Covid-19), there is also a need to mitigate, as far as practicable, any negative effects identified. Additionally, the Scottish Government must also 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 put in place via the Regulations are designed to help do this. Where possible we have sought to mitigate negative impacts in the Regulations.
15. The Scottish Government will continue to review the impact of the measures set out in the consolidated International Travel Regulations. Additionally, the Scottish Government will 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. Both the provisions introduced and any mitigating measures are given thorough consideration on the basis of their impact, including against policy intention, proportionality and in relation to equality and human rights.

## **Assessing the impacts and identifying opportunities to promote equality**

<p><b>Title of Proposal:</b> Reintroduction and expansion of PDT for the purposes of in-bound travel from outwith the Common Travel Area</p>
--

**Impact:** The re-introduction of PDT for certain categories of passengers arriving into Scotland, expanding the requirement for PDT to categories of traveller previously not included; reducing the period from 3 days to 2 days within which a PDT can be taken before travel. The policy also makes provision in relation to transiting passengers and updates the passenger notices to ensure passengers are aware of the duties incumbent on them.

These measures are being implemented across the UK as part of an aligned approach to mitigate importation of cases of Covid-19, and in particular the Omicron variant, as much as possible. The introduction of these measures recognises that, from a public health perspective, a blanket requirement can have three main benefits:

- by timing the PDT as close as possible to the time of departure, it may increase the chances of discovering infection that would otherwise go undetected pre-travel and could enter the UK
- as anyone testing positive would be unable to board a service to the UK, this also minimises the risk of transmission to others during travel and post-arrival
- it also may facilitate the slowing of potential ingress in other countries.

<b>Differential impacts</b>	<p><b>Age: Children and Younger People</b></p>	<p>It is acknowledged that the requirement to undertake a PDT 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 12 years are exempt from the requirement to undertake a PDT and to possess the supporting evidence of a negative result, although they can take a test if they wish to do so.</p> <p>The age of 12 is frequently used in legislation. For example, the Age of Legal Capacity (Scotland) Act 1991 makes a number of provisions which relate to the age of 12<sup>1</sup>. And NHS Scotland are offering the Covid-19 vaccine to children and young people aged 12 to 17<sup>2</sup>.</p> <p>Children undertaking the test at home or travelling with an adult may be in a position to seek supervision/assistance from an appropriate adult when taking the test and interpreting the results. Children who are travelling unaccompanied would only be able to benefit from this if the test was taken prior to the point of commencing travel, but still within the permitted 2 day window.</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,</p>
-----------------------------	--	--

<sup>1</sup> [Age of Legal Capacity \(Scotland\) Act 1991 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>2</sup> [Vaccinating children and young people aged 12 to 17 years | The coronavirus \(COVID-19\) vaccine \(nhsinform.scot\)](https://nhsinform.scot)

		<p>there are no restrictions on children which prevents them visiting parents overseas.</p> <p>However, it is recognised that the requirement to undertake the PDT may impact on family reunions over the festive period in particular. This may be most significant in cases where a traveller returns a positive result.</p> <p>It is important to recognise the value of an aligned approach across all four UK nations both in terms of communicating a clear message to passengers and the public in relation to the requirements but also in terms of operability for carriers and the travel sector as a whole. As such, there is alignment on the minimum age at which a child will be required to undertake PDT testing (12 years).</p> <p>Any potential negative impacts are not considered disproportionate in the context of the stated aim of these Regulations; namely preventing the spread of the virus.</p>
	<p><b>Age: Older People</b></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, it is recognised that the measures may negatively impact some older people.</p> <p>Digital access usually reduces with age. As of 2019, 20% of over-55s in the UK do not own a smartphone<sup>3</sup> and only 47% of adults aged 75+ use a smartphone to access the internet, compared to 98% of 16-24 year olds.<sup>4</sup> With much of the guidance around the re-introduction of the PDT and the need to obtain a certified result prior to travel being online, there may be additional challenges faced by this group if digital accesses and digital literacy are issues.</p> <p>It is also recognised that the requirement to undertake the PDT may impact on family reunions over the festive period in particular. This may be most significant in cases where a traveller returns a positive result and may need to isolate alone. It is well understood that older people are more at risk of loneliness and isolation than the general population.</p>

<sup>3</sup> Deloitte (2019). [Global Mobile Consumer Survey: UK cut. Plateauing at the peak: the state of the smartphone](#). UK-representative sample (n = 4,150).

<sup>4</sup> Scottish Government (2019). [Scotland's People Annual Report](#).

	Any potential negative impacts are not considered disproportionate in the context of the stated aim of these Regulations; namely preventing the spread of the virus.
<b>Sex: Men and Women</b>	<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>We are not aware of any evidence that suggests the imposition of restrictions will create any particular inequalities for this protected characteristic.</p>
<b>Race</b>	<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.</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.<sup>5</sup></p> <p>The overall impact of these Regulations on all 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> <p>It is also recognised that the requirement to undertake the PDT may impact on family reunions over the festive period in particular or may impact extended families where there is a significant importance places on foreign travel in the context of family life. This may be most significant in cases where minority ethnic groups have extended family outside of the Common Travel Area to a greater degree than the general population.</p> <p>Any potential negative impacts are not considered disproportionate in the context of the stated aim of these Regulations; namely preventing the spread of the virus.</p>
<b>Religion &amp; Faith</b>	Consideration has been given to the impact of these Regulations on individuals' religion and beliefs. We are not aware of any evidence that suggests the imposition of restrictions will create any particular inequalities for this protected characteristic.

<sup>5</sup> [Report \(nrscotland.gov.uk\)](https://www.nrscotland.gov.uk)

	<p>However, it is recognised that the requirement to undertake the PDT may impact on family reunions and religious celebrations generally over the festive period in particular. This may be most significant in cases where a traveller returns a positive result.</p> <p>Any potential negative impacts are not considered disproportionate in the context of the stated aim of these Regulations; namely preventing the spread of the virus.</p>
<b>Disability</b>	<p>Measures that may help limit the spread of Coronavirus (Covid-19) are designed to positively affect the entire population, but may particularly benefit disabled people, protecting their health and helping to advance equality of opportunity.</p> <p>However, that is not to say that the measures will not negatively impact on disabled people.</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.<sup>6</sup> While disabled people may have a smartphone, it may be too old to support certain apps.<sup>7/8</sup> A disabled person may choose not to update their phone to support apps as the one they have meets their accessibility needs.</p> <p>With much of the guidance around the re-introduction of the PDT and the need to obtain a certified result prior to travel being online, there may be additional challenges faced by this group if digital accesses and digital literacy are issues.</p> <p>Any potential negative impacts are not considered disproportionate in the context of the stated aim of these Regulations; namely preventing the spread of the virus.</p>
<b>Sexual Orientation</b>	<p>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 available from Ready Scotland's additional support page<sup>9</sup>.</p> <p>We are not aware of any evidence that suggests the imposition of restrictions will create any particular inequalities for this protected characteristic.</p>

<sup>6</sup> Glasgow Disability Alliance. [GDA Connects](#)

<sup>7</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>8</sup> Office for National Statistics (8 March 2021). [Coronavirus and vaccine hesitancy, Great Britain](#)

<sup>9</sup> [Get help | Ready Scotland](#)

<b>Marriage and Civil Partnership</b>	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.
<b>Pregnancy and Maternity</b>	We are not aware of any evidence that suggests the imposition of restrictions will create any particular inequalities for this protected characteristic.
<b>Gender Reassignment</b>	We are not aware of any evidence that suggests the imposition of restrictions will create any particular inequalities for this protected characteristic.
<b>Socio-economic disadvantage</b>	<p>It is accepted that travellers may have difficulty paying for tests (especially if this policy change was introduced during their travels and is an unexpected expense) or may face financial hardship if they PDT returns a positive result and they need to isolate overseas, rearrange travel etc. This may be significant for different groups of travellers including larger families and lone travellers. The FCDO Consular Assistance teams have processes in place to support travellers who are stranded abroad due to various crisis circumstances including nationals without sufficient finances.</p> <p>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”.</p>
<b>Mitigating actions:</b>	
<p>The changes to the Regulations introduced at this time, as per the requirement on the International Travel Regulations as a whole, will be subject to regular review and will only remain in place for as long as is necessary to protect the public health of Scotland. Once it is appropriate to do so, and complies with clinical evidence and advice, restrictions will be lessened or removed.</p>	

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

<b>Age</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
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?**

<b>Disability</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
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 men and women in different ways?**

<b>Sex</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
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?**

<b>Pregnancy and Maternity</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
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>10</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**

<sup>10</sup> The PSED does not apply to the protected characteristic of marriage and civil partnership  
<https://www.gov.uk/guidance/equality-act-2010-guidance>

17. The provisions set out in the Regulations are intended to balance the restrictions necessary to protect people from the potential direct harms to health from importation of new variants of Coronavirus (Covid19), with the potential of any unintended harms the restrictions may have. This may be particularly relevant in relation to isolation, wellbeing and the economy.
18. The view of the Scottish Government is that these Regulations are a justified and a proportionate means of reducing the public health risks posed by Coronavirus (Covid-19), while recognising there is also a need to balance the approach with the obligations set out in the Public Sector Equality Duty.
19. The Scottish Government will continue to keep the consolidated International Travel Regulations under review and in line with the approach being taken across the UK, will look to revoke them when the clinical evidence supports such a step.