

**Equality Impact Assessment**  
**The Public Health (Coronavirus) (International Travel and Operator Liability)**  
**(Scotland) Amendment (No. 13) 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. Recently, it was necessary to make and lay Regulations<sup>1</sup> urgently in response to the specific and dynamic circumstances with regards to international travel in response to the changing epidemiological picture of COVID-19 internationally, particularly the emergence of the ‘Omicron’ variant. The purpose of those Regulations was to add countries to the “red list” 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 have then resulted in transmission of Omicron variant within Scottish communities.
4. The changes made by the Public Health (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 13) Regulations 2021 are made in recognition of the fact that maintaining some of these additional measures would no longer be a proportionate response as the Omicron variant of the SARS-CoV-2 virus is transmitting rapidly within Scotland with strong evidence that community transmission is widespread.

**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.

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<sup>1</sup> [The Health Protection \(Coronavirus\) \(International Travel and Operator Liability\) \(Scotland\) Amendment \(No. 8\) Regulations 2021](#),  
[The Health Protection \(Coronavirus\) \(International Travel and Operator Liability\) \(Scotland\) Amendment \(No. 9\) Regulations 2021](#),  
[The Health Protection \(Coronavirus\) \(International Travel and Operator Liability\) \(Scotland\) Amendment \(No. 11\) Regulations 2021](#)  
[The Health Protection \(Coronavirus\) \(International Travel and Operator Liability\) \(Scotland\) Amendment \(No. 12\) Regulations 2021](#)

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 named 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 taken prior to departure;
  - 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 Public Health (Coronavirus) (International Travel and Operator Liability) (Scotland) Amendment (No. 13) Regulations 2021 amend the consolidated International Travel Regulations by:
  - Removing Angola, Botswana, Eswatini, Lesotho, Malawi, Mozambique, Namibia, Nigeria, South Africa, Zambia and Zimbabwe from the list of acute countries or territories, the “red list”. This has the effect that, from the date the instrument comes into force, there are no acute countries or territories on the “red list”.
  - Provides as follows for children arriving from non-red list countries:-
    - Children under 11 accompanied by adult
      - May leave self-isolation if the adult’s day 2 test is negative
      - If the adult’s test is positive the child must remain in isolation

- Unaccompanied children under 11
  - Not required to isolate

## **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 isolation for Red list arrivals were assessed at its introduction and [published here](#).
14. The Scottish Government continues to consider any newly identified evidence and review existing, mitigating actions in relation to the impacts of international travel regulations, as it relates to each of the protected characteristics, and makes further adjustments, as appropriate, in line with the requirements of the Public Sector Equality Duty (PSED).
15. 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**

### **Analysis**

16. Having given consideration to the impacts the view is that there are no envisaged negative impacts on any identified groups that require to be mitigated.
17. In the days prior to this instrument being laid, the number of Omicron cases in the UK has risen, community transmission is now widespread and so the aim sought to be achieved by these measures is no longer necessary so the measures are being removed. As a result, the public health rationale for maintaining the countries on the Red List, which imposes increased restrictions, including Managed Quarantine, on individuals arriving in Scotland from those countries, is no longer considered proportionate.
18. This instrument amends the Regulations to update the Red List of countries and territories to remove all the countries currently included. They are South Africa, Botswana, Lesotho, Eswatini, Namibia, Zimbabwe, Malawi, Mozambique, Zambia Angola, and Nigeria. The purpose of this is to ensure that the Regulations and restrictions imposed on public liberty are proportionate, necessary, and justifiable in the interest of public health.
19. 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. Balancing this with the risks of harm of the managed quarantine service associated with isolation, wellbeing, economy and that there is widespread community transmission of omicron in the UK we consider removing these measures are justified.

20. Likewise, making provisions in the regulations for children under 11 to leave self-isolation has a positive effect on children and families. It is acknowledged that the requirement to undertake tests 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 tests and to possess the supporting evidence of a negative result, although they can take a test if they wish to do so. This does not change the position where the adult's test is positive. Children here must remain in isolation. Where one adult in the group/family is positive and another is negative, the domestic isolation guidance would apply and household contacts of any person who tests positive are asked to isolate for 10 days.
21. 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.
22. The measures contained in this instrument allow more children to travel without the need to self-isolate on return will help to advance equality of opportunity and allow for them to be part of family gatherings over the festive period.

### **Assessing the impacts**

#### **Conclusion**

23. 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.
24. The view of the Scottish Government is that these Regulations are a justified and a proportionate means of managing 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.
25. The Scottish Government will continue to keep the regulations under review.