

EQUALITY IMPACT ASSESSMENT – THE HEALTH PROTECTION (CORONAVIRUS) (REQUIREMENTS) (SCOTLAND) AMENDMENT (NO. 6), (NO. 7) AND (NO. 8) REGULATIONS 2021 – DECEMBER 2021

In carrying out this EQIA for these Regulations the Scottish Government is mindful of the three needs of the Public Sector Equality Duty (PSED) - eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between people who share a protected characteristic and those who do not, and foster good relations between people who share a protected characteristic and those who do not - and recognises while the measures may positively impact on one or more of the protected characteristics¹, also recognises that the introduction of the measures may have a disproportionate negative impact on one or more of the protected characteristics. Where any negative impacts have been identified, we have sought to mitigate/eliminate these.

We are also mindful that the equality duty is not just about negating or mitigating negative impacts, as we also have a positive duty to promote equality. We have sought to do this through provisions contained in the Regulations, or by current support and guidance available.

While it is the view of the Scottish Government that any remaining impacts are currently justified and a proportionate means of helping to achieve the legitimate aim of reducing the public health risks posed by coronavirus, the Scottish Government also 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.

Therefore, there are safeguards built into the Regulations in that regard. 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 21 days². 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. Finally, it should be noted that all measures contained in the Principal Regulations, the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021, are also time-limited and will expire at the end of February 2022 (and restrictions may be ended earlier, if evidence around the impact of the pandemic determines that it is necessary and practicable to do so).

¹ [Section 4 of the Equality Act 2010](https://www.legislation.gov.uk/ukpga/2010/15/section/4) <https://www.legislation.gov.uk/ukpga/2010/15/section/4>

² Regulation 18 of the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021 <https://www.legislation.gov.uk/ssi/2021/277/regulation/18/made>

Title of Proposal: The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 6), (No. 7) and (No. 8) Regulations 2021

The No. 6 Regulations introduced legal requirements for physical distancing of 1m in specified hospitality and leisure settings; for table service in settings selling alcohol for consumption on the premises; and for limits of numbers at indoor and outdoor events. The No. 7 Regulations introduced legal requirements for the closure of nightclubs, dance halls or discotheque premises. The No. 8 Regulations allowed for nightclubs etc to adjust their operations so as to not operate as a nightclub for the purpose of remaining open in line with these regulations, without being in breach of any licensing requirements. They reintroduce provisions that previously existed within the Levels system in operation previously.

Introduction

The aim of this Equality Impact Assessment (EQIA) is to analyse the potential impacts for each protected characteristic under the Equality Act 2010, both positive and negative, for the measures referred to above as imposed by the Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 6) Regulations 2021 (“the No. 6 Regulations”); the Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 7) Regulations 2021, (“the No. 7 Regulations”); and the Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 8) Regulations 2021, (“the No. 8 Regulations”) which amended the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021. It provides updates on earlier EQIAs undertaken for the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020.

Legislative Background:

The UK Coronavirus Act 2020 received Royal Assent on 25 March 2020. Under that Act, the Scottish Government made regulations (in force from 26 March 2020) to implement physical distancing and impose restrictions on gatherings, events and operation of business activity. From 14 September 2020 they were replaced by the Health Protection (Coronavirus) (Restrictions and Requirements) (Scotland) Regulations 2020. From 9 October 2020 those Regulations were suspended and replaced by the Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020. A new levels-based approach was introduced on 2 November 2020, when the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (“the Local Levels Regulations”) came into force and revoked the previous regulations. On 9 August 2021 the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021 (“the Principal Regulations”) came into force and revoked the Local Levels Regulations. These Regulations amend the Principal Regulations.

Legislative Amendments – December 2021

The amendments to the Principal Regulations under the new No. 6 Regulations include new requirements for a person who is responsible for carrying on a business or providing a service in certain settings to minimise exposure to and take measures to minimise the incidence and spread of coronavirus through the application of a number of new measures:

Capacity limits (in force from 26 December) will be in place for live events with a maximum of:

- 100 people at indoor standing events
- 200 people at indoor seated events
- 500 people at outdoor events (whether seated or standing)

Physical distancing (in force from 27 December) of 1m is required for people on or waiting to enter hospitality and leisure settings, as specified in the No. 6 Regulations. This includes bars, restaurants, accommodation providers, indoor visitor attractions, museums and galleries, theatres, stadiums, concert halls, music venues, comedy clubs, cinemas, bowling alleys, snooker/pool halls, indoor funfairs, soft play areas, gyms, nightclubs (subsequently amended by No. 7 Regulations), bingo halls, casinos and sexual entertainment venues. It

excludes other indoor sports/exercise venues, while events and activities relating to weddings, civil partnership ceremonies and funerals are also exempt. People must be admitted to these premises in sufficiently small numbers at a time to allow the 1m distance to be maintained.

Table service is required (in force from 27 December) where alcohol is served for consumption on premises, and the customer must remain seated whilst consuming food and drink on the premises. These requirements apply whether or not the individual customer has ordered or is ordering alcohol.

The No. 7 Regulations amend the Principal Regulations to close nightclubs, dance halls or discotheque premises, subject to exceptions, from 5.00 a.m. on 27 December 2021. It would remain open to these businesses to operate the premises as e.g. a bar, rather than as a nightclub, dance hall or discotheque. If doing so the premises would obviously need to comply with the requirements for that alternative use (such as physical distancing and table service for a bar).

The No. 8 Regulations amend the Principal Regulations to allow nightclubs to adjust their operations so as to not operate as a nightclub for the purpose of remaining open in line with these regulations, without being in breach of any licensing requirements.

Ministers must review the Requirements Regulations at least every 3 weeks to assess whether any requirement in the regulations is still necessary to prevent, protect against or provide a public health response to the incidence or spread of infection in Scotland. We will continue to assess whether these measures are proportionate or if any less intrusive measures could be introduced to achieve the same combination of policy objectives and if so the policy will be immediately adjusted.

Policy Objectives:

The Omicron variant of the SARS-CoV-2 virus first identified in South Africa and designated a Variant of Concern by the WHO on 26 November continues to transmit rapidly within Scotland with strong evidence that community transmission is widespread. This variant is significantly more transmissible, it is therefore necessary to put in place further protective measures to reduce the rates of transmission.

The measures contained within the No. 6 Regulations seek to balance each of the four harms, by taking proportionate protective measures which seek to make social interactions safer by increasing distance and reducing crowding. These measures also prohibit large scale events which present a risk of mass exposure due to the increased transmissibility and attack rate of Omicron.

Due to this variant being significantly more transmissible, further protective measures were then introduced within the No. 7 Regulations to reduce the rates of transmission. These Regulations require that nightclubs and similar premises should not operate as such. It will remain open to these businesses to operate other than as a nightclub, with distancing and table service if required for the alternative use. Closure being provided for in regulations, combined with financial support, may reduce losses.

There is an immediate need for these measures to help stem the increase in cases, safeguard and protect the NHS, emergency services and the economy whilst we complete the booster programme and get its full effect.

The No. 8 Regulations were made to ensure that nightclubs which choose to remain open as e.g. a bar with table service and physical distancing in place, as allowed under the No. 7 Regulations, will not be in breach of licensing requirements.

Public health rationale for Government intervention:

Physical distancing and limiting the opportunities for physical interaction between different households is a proven and simple way of reducing both transmission of, and infection by, coronavirus, especially in crowded and less well ventilated spaces.

On 28 November the World Health Organisation (WHO) published an update on the new Omicron variant which advises countries to continue implementing the effective public health measures to reduce COVID-19 circulation overall, using a risk analysis and science-based approach. It also advises on increasing some public health and medical capacities to manage an increase in cases. WHO advise members of the public to take steps to reduce the spread of the COVID-19 virus by keeping a physical distance from others; wear a well-fitting mask; open windows to improve ventilation; avoid poorly ventilated or crowded spaces; keep hands clean; cough or sneeze into a bent elbow or tissue; and get vaccinated when it's their turn.³ WHO also made a statement on 14 December 2021 which advises that vaccines alone will not protect against Omicron and called for countries to use masks, social distancing, proper ventilation and hand hygiene to prevent contagion.

The SAGE 98 minutes⁴ from 7 December 2021 state “19. Some international reports of ‘superspreading’ events (some of which include Omicron) also suggest a greater role for airborne transmission than has previously been the case, as it is less likely that Omicron could have spread to as many people as it has at those events by other routes (low confidence). This means that measures to reduce airborne spread such as ventilation, well-fitting masks and distancing or reduced density of people in indoor environments may be even more important.”

ECDC have advised⁵ “Non-pharmaceutical interventions (NPIs) that have proven to be very effective in reducing transmission of infection should continue to be implemented by countries based on an assessment of their epidemiological situation regarding the Delta VOC, and taking into account the uncertainty of the situation regarding the Omicron VOC. Physical distancing measures, ensuring adequate ventilation in closed spaces, the maintenance of hand and respiratory hygiene measures, the appropriate use of face masks, and staying home when ill all remain relevant.”

The Scientific Pandemic Influenza Group on Modelling, Operational sub-group (SPI-M-O) concluded that⁶ “If Omicron in the UK combines increased transmissibility and immune escape, irrespective of severity, it is highly likely that very stringent measures would be required to control growth and keep R below 1”.

The 22 December UKHSA risk assessment on Omicron states that⁷ “Even at the reduced hospitalisation risk observed, the combined growth advantage and immune evasion properties of Omicron have the potential to lead to very high numbers of admissions to hospital”.

In line with the scientific evidence and the advice from the WHO, SAGE and ECDC, the Scottish Government considers it necessary and proportionate to introduce measures to reduce the density of people in hospitality and leisure settings, and to temporarily close nightclubs, unless used for non-nightclub purposes.

High risk settings

Higher-risk settings tend to have the following characteristics: close proximity with people from other households; settings where individuals stay for prolonged periods of time; high frequency of contacts; confined shared environments, and poor ventilation^{8 9}. These settings are considered higher risk due to the way COVID-19

³ Update on Omicron (who.int) <https://www.who.int/news/item/28-11-2021-update-on-omicron>

⁴ SAGE 98 minutes: Coronavirus (COVID-19) response, 7 December 2021 - GOV.UK (www.gov.uk) <https://www.gov.uk/government/publications/sage-98-minutes-coronavirus-covid-19-response-7-december-2021/sage-98-minutes-coronavirus-covid-19-response-7-december-2021>

⁵ Threat Assessment Brief: Implications of the further emergence and spread of the SARS CoV 2 B.1.1.529 variant of concern (Omicron) for the EU/EEA first update (europa.eu) <https://www.ecdc.europa.eu/en/publications-data/covid-19-threat-assessment-spread-omicron-first-update>

⁶ SPI-M-O: Consensus Statement on COVID-19, 7 December 2021 - GOV.UK (www.gov.uk) <https://www.gov.uk/government/publications/spi-m-o-consensus-statement-on-covid-19-7-december-2021>

⁷ 22 December 2021 Risk assessment for SARS-CoV-2 variant: Omicron VOC-21NOV-01 (B.1.1.529) (publishing.service.gov.uk) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1043840/22-december-2021-risk-assessment-for-SARS-Omicron_VOC-21NOV-01_B.1.1.529.pdf

⁸ WHO (13 December 2020). Coronavirus disease (COVID-19): How is it transmitted? <https://www.who.int/news-room/questions-and-answers/item/coronavirus-disease-covid-19-how-is-it-transmitted>

⁹ SAGE. Insights on transmission of COVID-19 with a focus on the hospitality, retail and leisure sector. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/982865/S1194_Transmission_in_hospitality_retail_leisure.pdf

spreads. COVID-19 spreads in small liquid particles when an infected individual coughs, sneezes, speaks, or breathes.¹⁰ These droplets are able to remain suspended in the air. When people are close together or in a confined, unventilated space, it is more likely these droplets will enter another person, either through inhalation, the droplets coming into contact with their eyes, nose or mouth, or by touching an infected surface and then touching their eyes, nose or mouth. When people meet who do not regularly see each other or have a high frequency of contacts, it is more likely one of the individuals is asymptotically infected through their separate social groups as the total number of extended contacts is greater. Examples of settings identified by Scientific Pandemic Insights Group on Behaviours (SPI-B) as high risk include public transport; places of worship, shops, malls and markets; parties; cinemas; theatres; planes; large family gatherings; cultural, sporting and political events; crowds; pubs and clubs; restaurants and cafes; hotels, cruise ships, hospitals and care homes.¹¹

The Virus Watch Community Cohort Study found that during a period of no restrictions (September – November 2021), hospitality was associated with an increased risk indoors but not outdoors. Participating in sports indoors or outdoors was also associated with increased risk (although it was noted that this may relate to associated social activities)¹². Studies have shown that intoxication has the potential to increase the risk of transmission of COVID-19 due to a decrease in compliance with increasing levels of intoxication, notably a reduction in physical distancing, lack of face masks when not seated and mixing with groups at other tables.¹³

State of the pandemic

The COVID-19 epidemic continues to pose considerable challenges. After decreasing in November 2021, new case rates have been rising sharply during December. There were 705 weekly cases per 100,000 population in the week to 18 December, which is a 54% increase from 458 weekly cases per 100,000 on 11 December¹⁴. Test positivity in the 7 days to the 21 December was 12.1%, an increase from 10.2% the 7 days to the 16 December 2021.^{15 16}

Omicron was first reported in Scotland on 29 November 2021 (from a sample taken 23 November 2021), became the dominant variant on 17 December 2021.^{17 18 19} Data to 18 December indicated a doubling time of between 2.60 and 2.71 days for Omicron in Scotland.²⁰

As at 19 December, Public Health Scotland had reported a total of 21,975 Omicron cases in Scotland of which 1,111 were confirmed, 20,777 probable, and 87 possible.²¹

¹⁰ WHO (13 December 2020). [Coronavirus disease \(COVID-19\): How is it transmitted?](https://www.who.int/news-room/questions-and-answers/item/coronavirus-disease-covid-19-how-is-it-transmitted) <https://www.who.int/news-room/questions-and-answers/item/coronavirus-disease-covid-19-how-is-it-transmitted>

¹¹ SPI-B (2 July 2020) [S0582 High connectivity situations outside the occupational or workplace context 1 .pdf](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/91111/S0582_High_connectivity_situations_outside_the_occupational_or_workplace_context_1.pdf) (publishing.service.gov.uk)

¹² [S1470 Non household activities covid risk 1 .pdf](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/91111/S1470_Non_household_activities_covid_risk_1.pdf) (publishing.service.gov.uk)

¹³ [Managing COVID-19 Transmission Risks in Bars: An Interview and Observation Study: Journal of Studies on Alcohol and Drugs: Vol 82, No 1 \(jsad.com\)](https://www.jsad.com/journal-of-studies-on-alcohol-and-drugs/vol-82-no-1)

¹⁴ [State of the Epidemic in Scotland – 23 December 2021 \(www.gov.scot\)](https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2021/12/coronavirus-covid-19-state-epidemic-23-december-2021/documents/state-epidemic-scotland-23-december-2021/state-epidemic-scotland-23-december-2021/govscot%3Adocument/state-epidemic-scotland-23-december-2021.pdf) <https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2021/12/coronavirus-covid-19-state-epidemic-23-december-2021/documents/state-epidemic-scotland-23-december-2021/state-epidemic-scotland-23-december-2021/govscot%3Adocument/state-epidemic-scotland-23-december-2021.pdf>

¹⁵ [State of the Epidemic in Scotland – 17 December 2021 \(www.gov.scot\)](https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2021/12/coronavirus-covid-19-state-epidemic-17-december-2021/documents/state-epidemic-scotland-17-december-2021/state-epidemic-scotland-17-december-2021/govscot%3Adocument/state-epidemic-scotland-17-december-2021.pdf) <https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2021/12/coronavirus-covid-19-state-epidemic-17-december-2021/documents/state-epidemic-scotland-17-december-2021/state-epidemic-scotland-17-december-2021/govscot%3Adocument/state-epidemic-scotland-17-december-2021.pdf>

¹⁶ [State of the Epidemic in Scotland – 23 December 2021 \(www.gov.scot\)](https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2021/12/coronavirus-covid-19-state-epidemic-23-december-2021/documents/state-epidemic-scotland-23-december-2021/state-epidemic-scotland-23-december-2021/govscot%3Adocument/state-epidemic-scotland-23-december-2021.pdf) <https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2021/12/coronavirus-covid-19-state-epidemic-23-december-2021/documents/state-epidemic-scotland-23-december-2021/state-epidemic-scotland-23-december-2021/govscot%3Adocument/state-epidemic-scotland-23-december-2021.pdf>

¹⁷ [Omicron variant - gov.scot \(www.gov.scot\)](https://www.gov.scot/news/omicron-variant/) <https://www.gov.scot/news/omicron-variant/>

¹⁸ [Public Health Scotland COVID-19 & Winter Statistical Report – 20 December 2021](https://www.publichealthscotland.scot/media/10930/21-12-22-covid19-winter-publication-report.pdf) <https://www.publichealthscotland.scot/media/10930/21-12-22-covid19-winter-publication-report.pdf>

¹⁹ Scottish Government (17 December 2021) <https://www.gov.scot/publications/coronavirus-covid-19-update-first-ministers-speech-17-december-2021/>

²⁰ [Coronavirus \(COVID-19\): modelling the epidemic \(issue no.83\) - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/coronavirus-covid-19-modelling-epidemic-issue-no-83/) <https://www.gov.scot/publications/coronavirus-covid-19-modelling-epidemic-issue-no-83/>

²¹ [Public Health Scotland COVID-19 & Winter Statistical Report op cit](https://www.publichealthscotland.scot/media/10930/21-12-22-covid19-winter-publication-report.pdf)

The emergence of the Omicron variant has altered the epidemiology of COVID-19 in Scotland with a sharp rise in cases observed in December; there is increasing community transmission of Omicron in Scotland as measured by confirmatory testing and identification through S gene target failure (SGTF) present in the Omicron variant, but not in the Delta variant. The percentage of new daily cases positive for SGTF in Scotland stood at 57.9% on 20 December, compared to 22.3% on 13 December and 3.0% on 6 December; confirming that Omicron was now the dominant strain in Scotland.²²

The UK Health Security Agency (UKHSA) risk assessment on Omicron updated on 22 December noted that analysis of UK data showed increased household transmission risk, increased secondary attack rates and substantially increased growth rates compared to Delta. The growth advantage of Omicron may be due to immune evasion or transmissibility, or both. Evidence from neutralisation studies, real world vaccine effectiveness against symptomatic disease, and reinfection rate all confirm substantial immune evasion properties from both natural and vaccine derived immunity for Omicron. However, at this time there are insufficient data to make any assessment of immune protection against severe disease. There is as yet no clear evidence of increased transmissibility compared to Delta, though this is biologically plausible.²³

Current evidence suggest that there is a moderate reduction in the relative risk of hospitalisation for Omicron compared to Delta but inconclusive data on severity in hospital admission or death. Available data suggests that the observed reduction in risk in the UK is likely to be partly a reduction in intrinsic severity of the virus and partly to protection provided by prior infection.²⁴

Vaccine effectiveness against symptomatic disease for Omicron is lower than for Delta with significant waning being seen. Vaccine effectiveness is at between 60-75%, 2-4 weeks after a booster dose, dropping to between 35-45% after 10 weeks. These results should be interpreted with caution due to low numbers and a bias in the age group currently infected with Omicron. There is currently insufficient evidence to determine vaccine effectiveness against hospitalisation and severe disease, however based on experience with previous variants, this is likely to be substantially higher than the estimates against symptomatic disease.²⁵

Additional information about Omicron in Scotland is to be found in the latest State of the Epidemic reports. (www.gov.scot/collections/coronavirus-covid-19-the-state-of-the-epidemic/).

Details about the legislative changes

The main amendments under the new Regulations are:

No. 6 Regulations

Reintroduce capacity limits from 26 December for live events:

- 100 people at indoor standing events
- 200 people at indoor seated events
- 500 people at outdoor events (whether seated or standing)

Physical distancing (in force from 27 December) of 1m required in all indoor and outdoor hospitality and leisure settings. This includes bars, restaurants, accommodation providers, theatres, stadiums, concert halls, music venues, comedy clubs, cinemas, bowling alleys, snooker/pool halls, funfairs, soft play areas, gyms, nightclubs (subsequently amended by the No. 7 Regulations) bingo halls casinos and sexual entertainment venues.

²² [Public Health Scotland COVID-19 & Winter Statistical Report](#)

²³ [22 December 2021 Risk assessment for SARS-CoV-2 variant: Omicron VOC-21NOV-01 \(B.1.1.529\)](#) (publishing.service.gov.uk) op cit

²⁴ Ibid

²⁵ [COVID-19 vaccine surveillance report - week 51](#) (publishing.service.gov.uk)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1043608/Vaccine_surveillance_report_-_week_51.pdf

The Regulations do not include restrictions on other indoor sports/exercise venues, while events and activities relating to weddings, civil partnerships ceremonies and funerals are also exempt.

Table service is required (in force from 27 December) where alcohol is served for consumption on premises, and the customer must remain seated whilst consuming food and drink on the premises, These requirements apply whether or not the individual customer has ordered or is ordering alcohol.

No. 7 Regulations

Nightclubs, dance halls or discotheque premises, subject to exceptions, to close from 5.00 a.m. on 27 December 2021. It would remain open to these businesses to operate the premises as a bar, for example, with distancing and table service, rather than as a nightclub, dance hall or discotheque, and to comply with the requirements in place for the alternative use.

No. 8 Regulations

Regulations amend the Principal Regulations to allow nightclubs to adjust their operations so as to not operate as a nightclub for the purpose of remaining open in line with these regulations, without being in breach of any licensing requirements.

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| Background | <p>Age: Children and Younger People</p> | <p>The No. 6 Regulations bring changes regarding physical distancing in leisure and hospitality settings. They set out that children under 12 are exempted from the mandatory requirement on the operator of the premises to ensure they keep 1m distance. Children 12 and over would need to be required by the operator to keep a distance. This means that children of primary school age and younger, who are less likely to keep distances at all time, due to level of understanding and maturity, are excluded from this requirement. For children 12 and above, there are exemptions (as with adults) where they are part of the same household or group formed of more than one household, or in attendance with a carer.</p> <p>For capacity limits at live events, those under 5 years of age are not included in the numbers who can attend, although parents/carers would be.</p> <p>Evidence from the Scientific Advisory Group for Emergencies (SAGE) continues to demonstrate that secondary aged school children are more susceptible to the virus, as well as more likely to transmit it, than those of a younger age (11 and younger), hence the continued limitations on children of that age group.²⁶</p> <p>The No.s 7 and 8 Regulations relate to licensed nightclubs would not be relevant to young people under the age of 18, but would impact on young people 18-24 years of age.</p> |
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²⁶ Weekly Scottish data on testing and positive COVID-19 cases among children and young people of educational age is available in the [COVID-19 Education Surveillance Report](https://scotland.shinyapps.io/phs-covid19-education/), published by Public Health Scotland <https://scotland.shinyapps.io/phs-covid19-education/> w 852fb58e/

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| Differential impacts | | <p>This could have a differential impact on children aged 12 and over (or 5 and over for capacity limits), who would be in the same category as adults in terms of physical distancing and the limits on numbers at events, especially where undertaking social or sporting events. However, the regulations exempt groups formed of more than one household attending premises together from the distancing requirements.</p> <p>It may also impact on children under 12 attending where there are space limitations on the number of accompanying adults that can be accommodated, for example, soft play facilities.</p> <p>The inclusion of children five years and over in capacity numbers may have an impact on the numbers of children, families and carers attending an event, as well as the overall economic viability of the event going ahead, especially for seasonal events that rely on large numbers. Cancellation of certain events e.g. pantomimes, may have a temporary and relatively small negative impact on children’s wellbeing.</p> <p>Evidence shows that within the accommodation and food services sector, which includes hospitality (subject to requirements for physical distancing, table service and closure in respect of nightclubs) the workforce includes a significant proportion of young people in the 16-24 age group²⁷, and who may be impacted if businesses are unable to trade at normal capacity.</p> <p>Nightclub attendees are more likely to be younger adults. Mental wellbeing is known to be worse among younger people, and it is younger people whose mental health has been hardest hit by the pandemic. Closure of nightclubs could have a slight negative impact on the mental wellbeing younger adults by reducing opportunities to socialise.²⁸</p> |
| Background | Age: Older People | <p>Older people have been disproportionately impacted by the health impacts of the virus (Harm 1), although since the introduction of vaccinations, have been prioritised, both for initial doses and the booster. Indeed, the age profile for those dying from COVID-19 has been significantly higher than that for deaths in general. More than three quarters (77%) of all those who died were aged 75 or over and 43% were aged 85 or over. Compared to all deaths in 2019, 63% of those who died were aged 75 or over and 33% were aged 85 or over.²⁹ It also has to be noted that the proportion of adults living with limiting long-term conditions, and who may be more susceptible to the impacts of the virus increased with age. Just over a 1 in 10 (13.6%) of those aged 16-24</p> |

²⁷ Scottish Government (2020), Scotland’s Labour Market: People, Places and Regions Scotland’s Labour Market: People, Places, and Regions - Statistics from the Annual Population Survey 2019 - gov.scot (www.gov.scot).

²⁸ The Impacts of COVID-19 on equality in Scotland <https://www.gov.scot/publications/scotlands-labour-market-people-places-regions-statistics-annual-population-survey-2019/>

<https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2020/09/the-impacts-of-covid-19-on-equality-in-scotland/documents/full-report/full-report/govscot%3Adocument/Covid%2Band%2BInequalities%2BFinal%2BReport%2BFor%2BPublication%2B-%2BPDF.pdf>

²⁹ Deaths involving coronavirus (COVID-19) in Scotland (monthly analysis), Scotland’s Population 2019

<https://www.nrscotland.gov.uk/files/statistics/covid19/covid-deaths-report-week-41.pdf>

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| | <p>lived with limiting long-term conditions, compared with about half (50.6%) of those aged 75 and over.³⁰</p> <p>As noted previously in the EQIA, multiple laboratory trials report the potential for reduced vaccine efficacy with Omicron compared to previous variants, with analysis of real world vaccine effectiveness data in the UK and South Africa highlighting reduced protection against infection and an increase in the risk of reinfection with Omicron. The administration of a third booster dose should increase vaccine effectiveness against symptomatic infection to over 70%³¹ (and as noted older people have been prioritised over other age groups).</p> <p>However, a lack of data existed to conclude on the severity of disease at the time of these regulations, hence the requirement to take a precautionary risk based approach.</p> <p>This includes the requirement to ensure that those aged 12 and over keep a distance of 1m in leisure and hospitality sectors, as physical distancing is a vital means of reducing the spread of the virus. Many of the venues where distancing is required are frequented by older people, for example, bingo halls, and who, if retired, provide these venues a source of custom at a time when the majority of working age people are in employment. Meeting others is also recognised as an important means of combating loneliness. However, the regulations do exempt people from the same group formed from one or more household from physical distancing, so this would allow groups of friends to continue to meet up and undertake leisure pursuits otherwise subject to these constraints.</p> |
| Differential impacts | <p>Some evidence of possible positive differential impact. As noted above, older people are at a higher risk of developing more severe symptoms when infected with the virus and have higher morbidity rates. Physical distancing helps limit the transmission of the virus, especially when the result of Omicron is not fully known at the time these regulations were made.</p> <p>However, equally, they may not be able to attend venues due to number constraints, impacting on entertainment and socialising opportunities or these facilities may decide to limit operations due to a reduction in the number of customers allowed.</p> <p>Limitations on opportunities to attend events, including theatre performances and sporting events may also have a detrimental effect on the mental health of older adults. For example, attendance at events such as football and other sporting matches, especially football, can be an opportunity to meet other people, particularly for men.³² Theatre and other cultural performances also offer individuals the opportunity to meet socially.</p> |

³⁰ [Scottish Surveys Core Questions 2019 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/scottish-surveys-core-questions-2019/documents/) <https://www.gov.scot/publications/scottish-surveys-core-questions-2019/documents/> Table 1.2 Long term conditions

³¹ [SARS-CoV-2 variants of concern and variants under investigation \(publishing.service.gov.uk\)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1042367/technical_briefing-31-10-december-2021.pdf) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1042367/technical_briefing-31-10-december-2021.pdf

³² [COVID-19: Empty football stadiums 'contributing to depression epidemic' | Football News | Sky Sports](https://www.skysports.com/football/news/11095/12202981/covid-19-empty-football-stadiums-contributing-to-depression-epidemic) <https://www.skysports.com/football/news/11095/12202981/covid-19-empty-football-stadiums-contributing-to-depression-epidemic>

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| | | No. 7 and 8 Regulations relate to nightclubs which generally attract and are aimed towards a younger clientele and therefore would have less of an impact on older people. |
| Background | Sex: Women | <p>Women are both significant users of the facilities subject to controls, and are more likely to be employed in the hospitality, tourism and events sector. In addition, women could face larger impacts due to being over-represented in part time roles (in 2019, women aged 16+ accounted for three-quarters of part time employment in Scotland)³³ and insecure work.</p> <p>In terms of usage, there may be certain activities that have higher usage by women than men, and vice versa, however, overall, those sectors impacted by the legislation attract custom from both sexes and are not specifically aimed at one sex or another.</p> <p>Tourism and hospitality stakeholders especially represent businesses who employ a large proportion of women (as well as young people (16-24 year olds) and non-UK nationals, especially EU citizens).³⁴</p> |
| Differential impacts | | <p>Physical distancing and capacity constraints are expected to impact a range of activities attended by men and women so no differential impact by sex is expected in this respect.</p> <p>As indicated above, as a significant number of women are employed in these impacted sectors, the restriction on customers through the 1m requirement may lead to reductions in staffing requirements or even closure – either on a temporary or part time basis.</p> |
| Background | Race | <p>Minority ethnic (ME) people in Scotland experience significant health inequalities, which has been impacted by the coronavirus pandemic.</p> <p>For example, data focusing on deaths occurring in Scotland on or after 12 March 2020 and registered by 14 June 2020 indicates deaths amongst people in the South Asian ethnic group were almost twice as likely to involve COVID-19 as deaths in the White ethnic group, after accounting for age, sex, area-level deprivation and urban rural classification.³⁵</p> <p>It should also be noted that the proportion of ME adults decreased with age. This is true of all reported groups other than “White: Scottish” and “White: Other British”. For example, a little under 1 in 20 of those aged 16-24 were categorised as “Asian” (4.3%) or “All other ethnic groups” (2.9%), compared to fewer than 1 in 100 of those aged 75 and over (0.5% and 0.1% respectively).³⁶</p> |

³³ Annual Population Survey <https://www.gov.scot/publications/scotlands-labour-market-people-places-regions-statistics-annual-population-survey-2019/>

³⁴ Scottish Government (2020), Scotland’s Labour Market: People, Places and Regions Scotland’s Labour Market: People, Places, and Regions - Statistics from the Annual Population Survey 2019 - gov.scot (www.gov.scot).

<https://www.gov.scot/publications/scotlands-labour-market-people-places-regions-statistics-annual-population-survey-2019/>

³⁵ Source: National Records of Scotland <https://www.nrscotland.gov.uk/files/statistics/covid19/ethnicity-deceased-covid-19-june20.pdf>

³⁶ Scottish Surveys Core Questions 2019 - gov.scot (www.gov.scot) <https://www.gov.scot/publications/scottish-surveys-core-questions-2019/documents/> Table 4.2 Ethnic group. Asian includes the categories Asian, Asian Scottish or Asian British; all other ethnic groups includes categories within the Mixed or Multiple Ethnic Group; African; Caribbean or Black; and Other Ethnic Group sections

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| | <p>Inequalities are also socioeconomic. Relative poverty, which affected 23% of households in Scotland in 2019, rose to 38% and 39% in Black and Asian households respectively.³⁷ The gap in employment rates for working age minority ethnic people, relative to the white population, was 22% for women and 9.5% in men.³⁸</p> <p>Estimates show that low earners were seven times more likely than high earners to have worked in a sector that has shut down as a result of the lockdown, and those with customer facing roles are likely to have seen reductions in earnings or face job losses as they are less able to work from home.³⁹</p> <p>This will particularly affect ME women who already face the economic effect of occupational segregation, part time working patterns due to disproportionate caring responsibilities, gender pay gap etc. Indeed, the minority ethnic employment gap is much higher for women (22.0 percentage points versus 9.5 for men, in 2019).⁴⁰</p> <p>The pandemic has exacerbated existing health and wider inequalities. Analysis of hospitalisations and more severe outcomes due to COVID-19 up to 30 September 2021 pointed to continued evidence of increased risks in most ME groups relative to the White ethnic group. Rates of hospitalisation or death were estimated to be around 4-fold higher in Pakistani and Mixed groups, and around two-fold higher in Indian, Other Asian, Caribbean or Black, and African groups. Deaths amongst people in the South Asian ethnic group during wave 1 were almost twice as likely to involve COVID-19 as deaths in the White ethnic group, after accounting for age group, sex, area-level deprivation and urban rural classifications. This increased to 3.78 times and 3.55 times more likely for wave 2 and wave 3 respectively. A similar pattern was seen for the Caribbean or Black and African group compared to the white group with an increased risk of 1.47 times, 2.03 times and 3.33 times more likely to die of COVID-19 for wave 1, 2 and 3 respectively.⁴¹</p> |
| <p>Differential impacts</p> | <p>There is some evidence of possible differential impacts, both positive and negative.</p> <p>Reducing the spread of coronavirus through the physical distancing requirements and limiting numbers at events (as well as closure of nightclubs) should have a positive impact on protecting these communities from health harms, by reducing or slowing transmission</p> |

³⁷ Scottish Government (September 2020). [COVID-19 At Risk Groups: Understanding the health, social and economic impacts](https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2020/09/covid-19-at-risk-groups/documents/coronavirus-covid-19-at-risk-groups-slide-pack/coronavirus-covid-19-at-risk-groups-slide-pack/govscot%3Adocument/COVID-19%2B-%2BA%2Bris%2Bgroups_%2Bunderstanding%2Bmost%2Bat%2Brisk%2B-%2Bto%2Bpublish.pdf). https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2020/09/covid-19-at-risk-groups/documents/coronavirus-covid-19-at-risk-groups-slide-pack/coronavirus-covid-19-at-risk-groups-slide-pack/govscot%3Adocument/COVID-19%2B-%2BA%2Bris%2Bgroups_%2Bunderstanding%2Bmost%2Bat%2Brisk%2B-%2Bto%2Bpublish.pdf

³⁸ Scottish Government (24 June 2020). [Inequalities by ethnicity in the context of Covid-19 slide-pack](https://www.gov.scot/publications/inequalities-by-ethnicity-in-the-context-of-covid-19-slide-pack/) <https://www.gov.scot/publications/inequalities-by-ethnicity-in-the-context-of-covid-19-slide-pack/>

³⁹ Institute for Fiscal Studies (April 2020). [Sector shutdowns during the coronavirus crisis: which workers are most exposed?](https://www.ifs.org.uk/publications/10444) - Institute For Fiscal Studies - IFS

⁴⁰ [Annual Population Survey Scotland's Labour Market: People, Places, and Regions - Statistics from the Annual Population Survey 2019 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/scotlands-labour-market-people-places-regions-statistics-annual-population-survey-2019/) <https://www.gov.scot/publications/scotlands-labour-market-people-places-regions-statistics-annual-population-survey-2019/>

⁴¹ [Public Health Scotland COVID-19 Statistical Report](https://www.publichealthscotland.scot/media/9908/21-10-27-covid19-publication_report.pdf) https://www.publichealthscotland.scot/media/9908/21-10-27-covid19-publication_report.pdf

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| | | <p>rates and, in particular, protecting those at a higher risk of severe health outcomes.</p> <p>However, equally, they may not be able to attend venues due to number constraints, impacting on entertainment and socialising opportunities or these facilities may decide to limit operations due to a reduction in the number of customers allowed.</p> <p>Adults of visible minority ethnicities are less likely to be employed than White adults, especially women, and may also have less access to 'fair work'. The evidence suggests that the immediate economic effects of the pandemic have fallen harder on people from ME groups, who are more likely to be working in hospitality and have less savings to fall back on.⁴²</p> |
| Background | Religion & Faith | <p>These regulations do not place any restrictions on places of worship or on an individual's ability to practise their religion.</p> |
| | Differential | Not applicable |
| | Disability | <p>According to the 2019 Scottish Health Survey, 32% of men and 37% of women in Scotland reported living with a limiting long-term condition. For people aged 75 and over, 58% had a limiting long-term condition.⁴³ 1 in 5 Scots identify as disabled and more than a quarter of working age people have an acquired impairment.⁴⁴</p> <p>Covid has a disproportionate impact on the health of disabled people: 93% of people who died from COVID-19 up until June 2021 had at least one pre-existing condition.⁴⁵ Some evidence (although not peer reviewed) also suggests that people with learning disabilities may be twice as likely to become infected with COVID-19 and three times more likely to die than the general population.⁴⁶</p> <p>Disruption of routine health and social care has had a disproportionately negative impact on disabled people, who are more likely to require such services. Inclusion Scotland undertook an online survey of 800 disabled people and their carers. While not a representative sample, half of respondents surveyed said that the pandemic had had an impact on their social care, formal and informal, and 30% reported that their social care support had reduced or stopped completely.⁴⁷</p> <p>There have also been wider mental health impacts from the Covid-19 pandemic, which although had an impact on the wider population,</p> |

⁴² The Impacts of COVID-19 on equality in Scotland

<https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2020/09/the-impacts-of-covid-19-on-equality-in-scotland/documents/full-report/full-report/govscot%3Adocument/Covid%2Band%2BInequalities%2BFinal%2BReport%2BFor%2BPublication%2B-%2BPDF.pdf>

⁴³ Scottish Government (September 2020). [Scottish health survey 2019: volume one - main report](#)

⁴⁴ Scottish Government (December 2018). [A Fairer Scotland for Disabled People: employment action plan](#)

⁴⁵ [Deaths involving COVID-19 Week 27: 5 - 11 July 2021 | National Records of Scotland \(nrscotland.gov.uk\)](#)

⁴⁶ Henderson, A. et al (Pre-print). COVID-19 infection and outcomes in a population-based cohort of 17,173 adults with intellectual disabilities compared with the general population

⁴⁷ Inclusion Scotland (October 2020). [Covid-19, disabled people and emergency planning in Scotland – a baseline report from Inclusion Scotland](#)

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| | | <p>potentially exacerbated pre-existing inequalities, and limited social connections, which was important for wellbeing.⁴⁸</p> |
| Differential impacts | | <p>Some evidence of possible positive and negative differential impacts.</p> <p>If the policy objectives to reduce the risk of transmission is achieved, this would positively impact those disabled people who are at a far higher risk of poorer health outcomes if they contract the virus.</p> <p>Physical distancing and number limitations have been in place to reduce transmission of COVID-19 and protect some of the most at risk groups, including disabled people. Disabled people may be more likely to be immunocompromised, or otherwise suffer more intense/fatal symptoms from COVID, so these new measures may further protect them, especially in light of the Omicron variant.</p> <p>The regulations exempt carers and a person assisted by the carer from the 1 metre distance requirement to the extent that they do not have to be distanced from each other.</p> <p>However, as venues are required to limit numbers to ensure 1m distancing is met, those in wheelchairs and other similar larger mobility aids may find hard to enter establishments that cannot accommodate them within the required distancing.</p> <p>In addition, the limitations on the opportunity for social connections in public places may impact on wellbeing, and impact negatively on mental health.</p> |
| Background | Sexual Orientation | <p>In 2018, 2% of people in Scotland identified as lesbian, gay, or bisexual (LGB).⁴⁹ The proportion of adults identifying as LGB & other also decreased with age. Just under 1 in 10 (8.3%) of those aged 16-24 identified as LGB & other, compared with fewer than 1 in 100 (0.5%) of those aged 75 and over (the age group with the highest proportion of those living with limiting long-term conditions).⁵⁰</p> <p>During the COVID-19 pandemic, loneliness and isolation have been an issue particularly for LGB people of all ages: a survey of 2,934 secondary school pupils (1,140 of whom identified as LGBT+) by Just Like Us found that 68% of LGBT+ young people surveyed reported their mental health has worsened since the pandemic began, compared with half (49%) of non-LGBT+ young people.⁵¹ Age UK also reported that older LGBT people are especially vulnerable to loneliness as they are more likely to be single, live alone, and have less contact with relatives.⁵²</p> |

⁴⁸ MHF-Impact-Covid-19-Pandemic-Scot.pdf (mentalhealth.org.uk) <https://www.mentalhealth.org.uk/sites/default/files/MHF-Impact-Covid-19-Pandemic-Scot.pdf>

⁴⁹ Office for National Statistics (6 March 2020). [Sexual Orientation, UK: 2018](https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/sexuality/bulletins/sexualidentityuk/2018) <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/sexuality/bulletins/sexualidentityuk/2018>

⁵⁰ Scottish Surveys Core Questions 2019 - gov.scot (www.gov.scot) <https://www.gov.scot/publications/scottish-surveys-core-questions-2019/documents/> Table 4.4 Sexual orientation

⁵¹ Just Like Us (18 February 2021). [LGBT+ young people twice as likely to feel lonely and worry daily about mental health than peers.](https://www.justlikeus.org/single-post/lgbt-young-people-mental-health-coronavirus) <https://www.justlikeus.org/single-post/lgbt-young-people-mental-health-coronavirus>

⁵² Age UK (February 2018). [Combating loneliness amongst older LGBT people](https://www.ageuk.org.uk/our-impact/policy-research/loneliness-research-and-resources/combating-loneliness-amongst-older-lgbt-people-a-case-study-of-the-sage-project-in-leeds/) <https://www.ageuk.org.uk/our-impact/policy-research/loneliness-research-and-resources/combating-loneliness-amongst-older-lgbt-people-a-case-study-of-the-sage-project-in-leeds/>

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| | | <p>While data from 2019 suggests that only 0.3% more men in the UK contracted HIV through sex with other men than with women, HIV still has a strong historical and cultural connection with the LGB community. A study from England in December 2020 showed that the risk of dying from COVID-19 for people with HIV was more than double that of the rest of the population, even after adjusting for factors such as deprivation, ethnicity, smoking and obesity.⁵³</p> |
| <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Differential impacts</p> | | <p>We do not consider that these measures will have a specific differential impact as they apply to all people, whatever their sexual orientation.</p> <p>Physical distancing and number limitations have been in place to reduce transmission of COVID-19 and protect some of the most at risk groups. Despite their higher risk of death from COVID-19, stakeholders advised that HIV positive people may feel hesitant about the vaccine due to fears about side effects and negative interactions between the vaccine interacts and HIV medication, despite guidance ruling out both concerns.^{54 55} Any policy which reduces transmission of the virus will have a positive impact on people with HIV and therefore these regulations could positively impact people with this protected characteristic.</p> <p>The new measures do not prevent groups from more than one household meeting up, including in public places.</p> <p>However, as these restrictions place limits on the number utilising facilities, people in this group may not be able to attend venues due to number constraints, impacting on entertainment and socialising opportunities. Alternatively, these facilities may decide to limit operations due to a reduction in the number of customers allowed.</p> |
| <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Background</p> | <p>Marriage and Civil Partnership</p> | <p>The number of marriages in Scotland in 2019 was 26,007, the lowest number since 1881. This continues a long-term downward trend, marking a decrease of a third in the last 50 years. There were 83 civil partnerships registered in Scotland in 2019.⁵⁶</p> <p>During the pandemic there has been a reduction in the number of marriages and civil partnerships taking place. This was due to the fact that Registration Offices closed in mid-March 2020 and most marriages scheduled after the closure could not take place. From June 2020 onwards marriages and civil partnerships were resumed with limits on the number of attendees, and these restrictions on numbers continued with the introduction of the local protection levels in November of that year. Further restrictions were introduced for the second lockdown in January 2021. While wedding ceremonies could go ahead, capacity was limited to five people, including the person conducting the ceremony. In April, Scotland reverted back to the levels system, with</p> |

⁵³ National AIDS Trust (2019). [HIV in the UK statistics](https://www.nat.org.uk/about-hiv/hiv-statistics) <https://www.nat.org.uk/about-hiv/hiv-statistics>

⁵⁴ Terrence Higgins Trust (4 February 2021). [Coronavirus vaccine guidance for people living with HIV](https://www.tht.org.uk/news/coronavirus-vaccine-guidance-people-living-hiv) <https://www.tht.org.uk/news/coronavirus-vaccine-guidance-people-living-hiv>

⁵⁵ British HIV Association & Terrence Higgins Trust (11 January 2021). [SARS-CoV-2 vaccine advice for adults living with HIV](https://www.bhiva.org/SARS-CoV-2-vaccine-advice-for-adults-living-with-HIV-plain-english-version-update) <https://www.bhiva.org/SARS-CoV-2-vaccine-advice-for-adults-living-with-HIV-plain-english-version-update>

⁵⁶ National Records of Scotland (2019). [Scotland's population – The Registrar's General Annual Review of Demographic Trends](#)

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| | | <p>numbers of attendees at weddings increasing from that month, and dependent on what level a local authority was in.</p> <p>There were 11,831 marriages in 2020, the lowest number ever recorded by the National Records of Scotland.⁵⁷ In the first quarter of 2021 there were 1,402 marriages compared with an average of 3,355 first quarter marriages for the previous five years.⁵⁸ In the second quarter, this number had increased to 5,545 marriages, but that was still 30% lower than the average number of second quarter marriages over the five years 2015-2019.⁵⁹</p> |
| Differential impacts | | <p>The Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices. These restrictions do not.</p> <p>In addition, persons in attendance at an event or activity which relates to a funeral, marriage ceremony or civil partnership registration, are exempted in the regulations from the physical distancing requirements.</p> |
| Background | Pregnancy and Maternity | <p>Pregnancy stakeholders⁶⁰ have highlighted that during the pandemic they have received a high volume of calls from women experiencing discrimination because of pregnancy-related matters. In terms of direct harm to health from the virus (Harm 1), evidence suggests that pregnant women are no more likely to get COVID-19 than adults without health conditions, but that they may be at increased risk of becoming severely unwell compared to non-pregnant women, particularly in the third trimester.⁶¹</p> <p>A rapid evidence review⁶² also indicated pregnant women have the same risk factors for COVID-19 infection as the general population, namely, age, pre-existing medical conditions, being overweight or obese or having an minority ethnic background.</p> <p>Studies have shown that there are higher rates of admission to intensive care units for pregnant women with COVID-19 compared to non-pregnant women with COVID-19. It is important to note that this may be because clinicians are more likely to take a more cautious approach when deciding whether to admit someone to the intensive care unit when a woman is pregnant.⁶³</p> <p>There is also evidence from the UK which indicates that babies from a Black, Asian or other ethnic minority group are more likely to be</p> |

⁵⁷ [Vital Events Reference Table 2020: Report \(nrscotland.gov.uk\)](https://www.nrscotland.gov.uk/files/statistics/vital-events-ref-tables/2020/vital-events-ref-tables-20-publication.pdf)

<https://www.nrscotland.gov.uk/files/statistics/vital-events-ref-tables/2020/vital-events-ref-tables-20-publication.pdf>

⁵⁸ [Births, Deaths and Other Vital Events - Quarterly Figures | National Records of Scotland \(nrscotland.gov.uk\)](https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/general-publications/births-deaths-and-other-vital-events-quarterly-figures/1st-quarter-2021)
<https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/general-publications/births-deaths-and-other-vital-events-quarterly-figures/1st-quarter-2021>

⁵⁹ [Births, Deaths and Other Vital Events - Quarterly Figures | National Records of Scotland \(nrscotland.gov.uk\)](https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/general-publications/births-deaths-and-other-vital-events-quarterly-figures/2nd-quarter-2021)
<https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/general-publications/births-deaths-and-other-vital-events-quarterly-figures/2nd-quarter-2021>

⁶⁰ Maternity Action (submission to UKG call for evidence). Please note this is unpublished.

⁶¹ Royal College of Obstetricians & Gynaecologists (23 April 2021). [Coronavirus infection and pregnancy FAQs](https://www.rcog.org.uk/en/guidelines-research-services/guidelines/coronavirus-pregnancy/covid-19-virus-infection-and-pregnancy/)
<https://www.rcog.org.uk/en/guidelines-research-services/guidelines/coronavirus-pregnancy/covid-19-virus-infection-and-pregnancy/>

⁶² [COVID-19 in pregnant women and newborn babies - POST \(parliament.uk\)](https://post.parliament.uk/covid-19-in-pregnant-women-and-newborn-babies/) <https://post.parliament.uk/covid-19-in-pregnant-women-and-newborn-babies/>

⁶³ [Coronavirus infection and pregnancy \(rcog.org.uk\)](https://www.rcog.org.uk/en/guidelines-research-services/guidelines/coronavirus-pregnancy/covid-19-virus-infection-and-pregnancy/) <https://www.rcog.org.uk/en/guidelines-research-services/guidelines/coronavirus-pregnancy/covid-19-virus-infection-and-pregnancy/>

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| | | <p>hospitalised with COVID-19 than babies from a white background. UKOSS studies and more recent publications have found that pregnant women from Black, Asian and minority ethnic backgrounds were more likely than other women to be admitted to hospital for COVID-19. Pregnant women over the age of 35, those who had a BMI of 25 or more, and those who had pre-existing medical problems, such as high blood pressure and diabetes, were also at higher risk of developing severe illness and requiring admission to hospital.⁶⁴</p> <p>The restrictions being introduced do not single out women who are pregnant or on maternity, with children under 12 being exempt from distance limitations and those under 5 from the numbers at events.</p> |
| Differential impacts | | <p>Some evidence of possible positive differential impact. Any policy which reduces transmission of the virus, including physical distancing in certain public indoor settings and limits on numbers at events, will have a positive impact on people with this protected characteristic.</p> <p>The regulations do not place potential number constraint issues on the type of public premises that might be used by support networks ie mother and baby groups, such as community or church halls.</p> |
| Background | Gender Reassignment | <p>As of May 2018, around 0.5% of the population of Scotland (24,000 people) were estimated to be transgender.⁶⁵ Trans people are more likely to be living with mental health conditions. A systematic review concluded that trans people were twice as likely as the general population to take their own lives, and that a lack of health care access adds particular pressure onto trans communities.⁶⁶</p> <p>COVID-19 has had a high impact on trans people. A 2020 review of literature on trans people and loneliness found that trans people often report higher levels of loneliness than the general population. It also found that belonging to communities of people who face similar challenges has a positive psychological impact on trans people's wellbeing.⁶⁷</p> |
| Differential impacts | | <p>We have not identified any specific differential impact from these measures. As with the population overall, trans people are still able to meet up in groups attending a venue together to counter loneliness and improve wellbeing and the restrictions will also benefit health through reducing the spread of coronavirus.</p> |

⁶⁴ Ibid

⁶⁵ Scottish Public Health Network (May 2018). [Health Care Needs Assessment of Gender Identity Services](https://www.scotphn.net/wp-content/uploads/2017/04/2018_05_16-HCNA-of-Gender-Identity-Services-1.pdf) https://www.scotphn.net/wp-content/uploads/2017/04/2018_05_16-HCNA-of-Gender-Identity-Services-1.pdf

⁶⁶ Mcneil, J. et al (2017). [Suicide in trans populations: a systematic review of prevalence and correlates](https://www.research.lancs.ac.uk/portal/en/publications/suicide-in-trans-populations(c767d39a-64f6-47aa-b83f-62be843790ed).html). Psychology of Sexual Orientation and Gender Diversity, Issue 3, Vol. 4 p. 341-353. [https://www.research.lancs.ac.uk/portal/en/publications/suicide-in-trans-populations\(c767d39a-64f6-47aa-b83f-62be843790ed\).html](https://www.research.lancs.ac.uk/portal/en/publications/suicide-in-trans-populations(c767d39a-64f6-47aa-b83f-62be843790ed).html)

⁶⁷ Wright, T. (28 July 2020). [Being trans and feeling lonely: a reflection on loneliness literature, community connectedness, and mental health in the transgender and gender diverse community](https://www.ucl.ac.uk/psychiatry/sites/psychiatry/files/talen_wright_blog_2020_07_28.pdf). London School of Hygiene and Tropical Medicine. https://www.ucl.ac.uk/psychiatry/sites/psychiatry/files/talen_wright_blog_2020_07_28.pdf

Mitigating actions:

We know that people with one or more of the protected characteristics are experiencing disproportionately negative impacts of the virus. Therefore in responding to these complex, evolving and unprecedented demands we recognise the need to ensure that the measures that we are putting in place to respond to COVID-19 work for people, in a way that is founded in fairness and dignity, delivers equality and safeguards human rights.

This impact assessment is designed not only to meet our legal duty to ensure that in making decisions that we are paying due regard to the three needs of the Public Sector Equality Duty (PSED) and fulfilling our legal duty. It is intended to ensure that the measures and systems that we put in place, intended to support people, meet that duty and do not have unintended negative impacts nor entrench disadvantage. Where any negative impacts have been identified we have sought to mitigate them.

The measures introduced by the regulations are focussed primarily on reducing transmission opportunities and risks among social contacts within public places, to slow spread of the virus, providing more time to complete the booster vaccination programme and to further assess the severity of Omicron.

These Regulations will help meet the PSED to advance equality of opportunity between people who share a protected characteristic and those who do not, and foster good relations between people who share a protected characteristic and those who do not - and recognises while the measures may positively impact on one or more of the protected characteristics⁶⁸, also recognises that the introduction of the measures may have a disproportionate negative impact on one or more of the protected characteristics. Where any such impacts have been identified, the Scottish Government has actively sought to mitigate/eliminate these.

In terms of advancing equality of opportunity, these Regulations bring in legal measures that are designed to reduce the risk of transmission of a virus that the assessment above indicates has a more specific impact on some protected characteristics compared with the population overall. By limiting the potential spread of COVID-19 through a reduction in opportunities for person to person transmission, it will help advance the equality of opportunity for all of society to benefit from better health, with a reduced risk of virus infection.

By benefitting those who have poorer health, especially among those at risk in the categories above (such as older people, those with underlying health conditions (and some disabled people are more likely to experience severe ill-health from contracting COVID-19 than the general population), and some minority ethnic communities, it will help eliminate discrimination among these different groups. This will help foster better relationships by preventing certain characteristics from being more at risk from infection, and avoids singling out one specific sector for stricter measures being in place. This should help benefit relations between society, in that no sector is prevented from their particular status or circumstances from enjoying the same opportunities as others, due to COVID-19.

There are some potential, but relatively minor, 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 coronavirus, particularly the Omicron variant, there is also a need to mitigate those negative impacts identified.

A number of exclusions were brought in by the Regulations to mitigate the impact on people more widely, including those with protected characteristics. Enabling two or more members of the same household or of a group formed of more than one household to attend hospitality or leisure premises together without having to distance from each other, will help discourage loneliness and allow for social meetings and events to continue – for example, older people meeting in a café or young people going to the cinema.

People with disabilities, older people, and others who require a carer are not required to distance from their support worker.

⁶⁸ [Section 4 of the Equality Act 2010 https://www.legislation.gov.uk/ukpga/2010/15/section/4](https://www.legislation.gov.uk/ukpga/2010/15/section/4)

Recognising the benefits of social interaction, mitigations to allow young people under 12 years of age to be excluded from the 1m rule enables these children to continue to visit and meet together in leisure venues, for example, being taken or going to a fast food establishment and interacting with others.

Significant life events have been excluded from these legal restrictions, recognising the crucial part that they play in people's lives, with people in attendance at an event or activity which relates to a funeral, marriage ceremony or civil partnership registration excluded from distancing requirements.

This assessment also recognises that people with protected characteristics are more likely to be employed in the venues subject to the restrictions, namely women, young people and minority ethnic people. We are aware that potential restrictions on custom by limiting numbers may lead businesses to either reduce services or close them, and that this will have an impact on employees, particularly at a time when furlough has ended and costs, especially energy, are higher. That is why we have provided financial support to these sectors.

As a result of the cancellation of events, mainly due to the restrictions, the Scottish Government announced £65m of additional funding support for the culture and events sector, including £31.5m for cultural businesses, organisations, venues and independent cinema support and grassroots venues and £10m for freelancers. There is also £19.8m specifically allocated for events.

To mitigate the impact on the hospitality and tourism sector of the restrictions, the Scottish Government is providing funding to eligible businesses. This involves financial support of up to £8.9k from top up funds for hospitality businesses; for leisure a maximum of £3.1k; and up to £5k for businesses required to provide table service (but not in addition to other funds). Nightclubs, which were required to close, can apply for support of up to £55k, depending on their size, to support their employees. For the tourism businesses in Scotland that have been the most affected by the Omnicron COVID-19 restrictions in place since December 2021, eligible businesses will receive a top-up payment of £6.8k.

The Scottish Government understands the impact the pandemic has had on events and we have been doing all that we can to allow events to take place while continuing to ensure appropriate safeguards are in place. Unfortunately, due to the emergence of the new Omicron strain and the resulting surge in levels of infection, the Scottish Government has had to act swiftly and we know that the much higher transmissibility of Omicron means that large gatherings have the potential to become very rapid super-spreader events, putting large numbers at risk of getting infected very quickly. Limiting these events helps reduce the risk of rapid, widespread transmission. It also cuts down the transmission risks associated with travel to and from such events.

Working with VisitScotland, the Event Industry Advisory Group commissioned a review of existing research and evidence to better understand and demonstrate how events contribute to Scotland in terms of both individual wellbeing and that of our communities. The report of the review findings (which was undertaken by Wavehill Social and Economic Research) together with stakeholders from the events industry in Scotland was published in October 2021.⁶⁹

This legislation has been introduced specifically to slow the spread of Omicron. The Health Protection Regulations made under provisions within the Coronavirus Act 2020 (section 49 and schedule 19) require to be reviewed every 21 days and as soon as Ministers consider that any restriction or requirement is no longer necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in Scotland with coronavirus, they are under a legal duty to revoke the restriction or requirement.

⁶⁹ [Impact of Events on Wellbeing in Scotland - Report | VisitScotland.org https://www.visitscotland.org/research-insights/about-our-industry/events-wellbeing-report#frameworks](https://www.visitscotland.org/research-insights/about-our-industry/events-wellbeing-report#frameworks)

Assessing the impacts and identifying opportunities to promote equality

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 | The measure does not constitute unlawful discrimination, harassment and victimisation |
| Advancing equality of opportunity | X | X | | <p>This has potential impacts on younger age groups, who are less likely to be at risk from the virus, but are still subject to the restrictions.</p> <p>There is a positive aspect to this measure in that older people who are more at risk of the worst effects of COVID-19 are likely to be less exposed to the virus.</p> <p>There is a negative aspect for people living alone who may use attending certain events, such as sporting matches, for example, to meet other people and alleviate loneliness, although they are able to join other households in attending other venues for socialising and wellbeing purposes.</p> |
| Promoting good relations among and between different age groups | X | | | While there are fewer opportunities for different age groups to meet, this is weighed against the primary objective to reduce the rate of transmission of COVID-19. |

Do you think that the policy impacts disabled people?

| Disability | Positive | Negative | None | Reasons for your decision |
|---|-----------------|-----------------|-------------|--|
| Eliminating unlawful discrimination, harassment and victimisation | | | X | The measure does not constitute unlawful discrimination, harassment and victimisation. |
| Advancing equality of opportunity | X | X | | <p>There is a positive aspect to this measure in that people who are more at risk of the worst effects of COVID-19 are likely to be less exposed to the virus.</p> <p>There is a negative aspect for people living alone who may use these leisure opportunities to meet other people to alleviate loneliness.</p> |
| Promoting good relations among and between | X | X | | While there may potentially be fewer opportunities for disabled and non-disabled people to meet, this is weighed against the |

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|----------------------------------|--|--|--|--|
| disabled and non-disabled people | | | | primary objective to reduce the rate of transmission of COVID-19, and limits on social engagement are restricted by numbers and not prevented overall. |
|----------------------------------|--|--|--|--|

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 | The measure does not constitute unlawful discrimination, harassment and victimisation |
| Advancing equality of opportunity | | X | | There may be an impact on women in employment in the sectors affected, particularly if they cut operational hours. Some leisure activities are more popular among women, but overall this is balanced out by those that predominately have a male uptake. For example, in indoor contact sports that have traditionally been seen as male pursuits, such as football, where participation has been rising. The risk is that a prolonged period of restriction might restrict that positive growth. |
| Promoting good relations between men and women | X | X | | While there may potentially be fewer opportunities to meet, this is weighed against the primary objective to reduce the rate of transmission of COVID-19, and limits on social engagement are restricted by numbers, and not prevented overall. |

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 | The measure does not constitute unlawful discrimination, harassment and victimisation |
| Advancing equality of opportunity | | | X | There is no evidence of a differential impact |
| Promoting good relations | X | X | | While there may potentially be fewer opportunities to meet, this is weighed against the primary objective to reduce the rate of transmission of COVID-19, and limits on social engagement are restricted by numbers, and not prevented overall. |

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 | The measure does not constitute unlawful discrimination, harassment and victimisation |
| Advancing equality of opportunity | | | X | No evidence of a differential impact identified at this time |
| Promoting good relations | X | X | | While there may potentially be fewer opportunities to meet, this is weighed against the primary objective to reduce the rate of transmission of COVID-19, and limits on social engagement are restricted by numbers, and not prevented overall. |

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 | The measure does not constitute unlawful discrimination, harassment and victimisation. |
| Advancing equality of opportunity | | | X | No evidence of a differential impact identified at this time. |
| Promoting good relations | X | X | | While there may potentially be fewer opportunities to meet, this is weighed against the primary objective to reduce the rate of transmission of COVID-19, and limits on social engagement are restricted by numbers, and not prevented overall. |

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 | The measure does not constitute unlawful discrimination, harassment and victimisation |

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|-----------------------------------|---|---|--|--|
| | | | | |
| Advancing equality of opportunity | X | X | | Positive impact on health among BME communities that are statistically more at risk from COVID-19, by reducing potential transmission risks. However, members of such communities are also more likely to work in the leisure sectors impacted, and whose working patterns and pay may be impacted accordingly, especially within hospitality. |
| Promoting good race relations | X | X | | While there may potentially be fewer opportunities to meet, this is weighed against the primary objective to reduce the rate of transmission of COVID-19, and limits on social engagement are restricted by numbers, and not prevented overall. |

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 | The measure does not constitute unlawful 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 and places of worship are excluded from these restrictions. |

Do you think the policy impacts on people because of their marriage or civil partnership?⁷⁰

| Marriage and Civil Partnership | Positive | Negative | None | Reasons for your decision |
|---|----------|----------|------|---------------------------|
| Eliminating unlawful discrimination, harassment and victimisation | | | X | N/A |
| Advancing equality of opportunity | | | X | N/A |
| Promoting good relations | | | X | N/A |

⁷⁰ "The PSED only applies, under [section 149 \(a\)](#) 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."